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S/21917
31 October 1990

ORIGINAL: ENGLISH

REPORT BY THE SECRETARY-GENERAL CONCERNING THE CREDENTIALS OF THE ALTERNATE REPRESENTATIVE OF CANADA ON THE SECURITY COUNCIL

Pursuant to rule 15 of the provisional rules of procedure of the Security Council, the Secretary-General wishes to report that he has received a letter dated 29 October 1990 from the Permanent Representative of Canada to the United Nations stating that Ms. Marisa J. Piattelli has been appointed alternate representative of Canada on the Security Council.

In the opinion of the Secretary-General, this letter constitutes adequate provisional credentials.

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S/21918
31 October 1990

ORIGINAL: ENGLISH

LETTER DATED 30 OCTOBER 1990 FROM THE PERMANENT REPRESENTATIVE OF POLAND TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to refer to my letter of 21 September 1990 (S/21808) and upon instructions from my Government to inform you that as a result of the application against Iraq of the measures provided for by the Security Council in its resolution 661 (1990) Poland has found itself confronted with very difficult economic problems. It is for these reasons that the Republic of Poland is expressing its intention to exercise its right, granted by Article 50 of the Charter of the United Nations, to initiate consultations with the Security Council with a view to finding a solution to those problems.

(Signed) Stanislaw PAWLAK
Ambassador
Permanent Representative

90-28642 1859c (E)

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S/21919
31 October 1990

ORIGINAL: ENGLISH

REPORT SUBMITTED TO THE SECURITY COUNCIL BY THE SECRETARY-GENERAL
IN ACCORDANCE WITH RESOLUTION 672 (1990)

1. On 12 October 1990, the Security Council adopted resolution 672 (1990), which reads as follows:

"The Security Council,

"Recalling its resolutions 476 (1980) and 478 (1980),

"Reaffirming that a just and lasting solution to the Arab-Israeli conflict must be based on its resolutions 242 (1967) and 338 (1973) through an active negotiating process which takes into account the right to security for all States in the region, including Israel, as well as the legitimate political rights of the Palestinian people,

"Taking into consideration the statement of the Secretary-General relative to the purpose of the mission he is sending to the region and conveyed to the Council by the President on 12 October 1990,

"1. Expresses alarm at the violence which took place on 8 October at the Al-Haram Al-Shareef and other Holy Places of Jerusalem resulting in over twenty Palestinian deaths and to the injury of more than one hundred and fifty people, including Palestinian civilians and innocent worshippers;

"2. Condemns especially the acts of violence committed by the Israeli security forces resulting in injuries and loss of human life;

"3. Calls upon Israel, the occupying Power, to abide scrupulously by its legal obligations and responsibilities under the Fourth Geneva Convention, which is applicable to all the territories occupied by Israel since 1967;

"4. Requests, in connection with the decision of the Secretary-General to send a mission to the region, which the Council welcomes, that he submit a report to it before the end of October 1990 containing his findings and conclusions and that he use as appropriate all of the resources of the United Nations in the region in carrying out the mission."

READEX FICHE

2. Prior to the adoption of the resolution and, as noted in the resolution's third preambular paragraph, the Secretary-General informed the Security Council of his decision to send a mission to the area. This decision was announced in a statement by the President at the Security Council's 2948th meeting, in which he said:

> "In the informal consultations of members of the Council which led up to the consideration of this draft resolution, the Secretary-General explained that the purpose of the mission which he would be sending to the region would be to look into the circumstances surrounding the recent tragic events in Jerusalem and other similar developments in the occupied territories, and to submit by 24 October 1990 a report containing findings and recommendations to the Council on ways and means for ensuring the safety and protection of the Palestinian civilians under Israeli occupation. He recalled, however, that under the Fourth Geneva Convention the principal responsibility for ensuring the protection of the Palestinians rested with the occupying Power, namely Israel."

3. Immediately following the adoption of resolution 672 (1990), the Secretary-General met with the Acting Permanent Representative of Israel to the United Nations in order to inform him that, in the light of the resolution and of the statement by the President of the Security Council, it was his intention to send a mission to the area as quickly as possible. In that connection, the Secretary-General inquired as to the facilities that would be extended by the Government of Israel to his delegation. The Acting Permanent Representative replied that Israel regretted the adoption of resolution 672 (1990), as was clear from the statement he had just made in the Security Council. He nevertheless undertook to convey the message of the Secretary-General to his Government. At a further meeting, on 15 October 1990, the Acting Permanent Representative of Israel handed to the Secretary-General a copy of the statement that had been adopted by the Israeli Cabinet on 14 October 1990, the text of which reads:

> "The following is the announcement which the Cabinet has authorized the Deputy Prime Minister and Foreign Minister to communicate to the United Nations Secretary-General:
>
> "1. We have read the text of Security Council resolution 672 (1990) and the statement of the President of the Security Council that was communicated in connection thereto. They are totally unacceptable to us.
>
> "2. A. The Security Council decision completely disregards the attack against Jewish worshippers on the holiday of Succot at the Western Wall, which is on the Temple Mount, the holiest site of the Jewish people, and does not condemn those who attacked the worshippers; this is a political decision with no connection to reality.
>
> "B. The State of Israel expressed its regret over the loss of life that occurred as a result of events on the Temple Mount, at a time when security forces were responsible for fulfilling their duties. Israel has also appointed an independent commission of inquiry into

the chain of events, their causes and the actions of the security forces. The commission will present its conclusions and recommendations at the earliest possible date. As is known, the State of Israel ensures complete freedom of religion in the holy sites of all religions, in accordance with the law. Never, in all the history of Jerusalem, has freedom of religion for all been guaranteed as it has been since the city was unified under Israeli sovereignty in 1967, and never has the city been more open to all.

"3. Jerusalem is not, in any part, 'occupied territory'; it is the sovereign capital of the State of Israel. Therefore, there is no room for any involvement on the part of the United Nations in any matter relating to Jerusalem, just as the United Nations does not intervene in events, some even more severe, that occur in other countries.

"4. Given the above, Israel will not receive the delegation of the Secretary-General of the United Nations.

"5. Israel will continue to assume responsibility, in accordance with its laws, for the safeguarding of holy places and for the security of all residents of Jerusalem, Jews and Arabs, as in all other areas it controls."

In connection with the statement of the Israeli Cabinet, the Secretary-General asked for the following clarification with respect to paragraph 4: Did the Cabinet decision imply that his delegation would not be received by the Government, or did it mean that it would be barred from entry? Stating that his instructions had been solely to hand over the text of the Cabinet decision, the Acting Permanent Representative indicated that he would convey to his Government the Secretary-General's request for clarification. At the same time, he drew attention to the fact that the Israeli Prime Minister had appointed a Commission of Investigation to look into the events that had taken place at Jerusalem on 8 October 1990. Immediately after the meeting, the Secretary-General sent a letter to the President of the Security Council to inform him of the discussion, and attached a copy of the Israeli Cabinet decision to his letter.

4. In the absence of a formal reaction from the Government of Israel, the Secretary-General invited the Acting Permanent Representative to meet with him again on 18 October 1990, in order to determine whether he had received instructions regarding his request for clarification. The latter replied that, in view of the Secretary-General's reporting obligation under resolution 672 (1990), his Government was prepared to provide him with a copy of the report of its Commission of Investigation. The Commission, he said, was expected to conclude its work in the coming days. The Acting Permanent Representative noted that, in the light of Israel's readiness to provide that information, a United Nations mission to look into the 8 October 1990 incident was unnecessary. He stressed the fact that resolution 672 (1990) had not specifically requested that a mission be undertaken. In reply, the Secretary-General stated that there should be no linkage between the dispatch of a mission by him and the work of the Israeli Commission.

The primary purpose of a United Nations mission would be, said the Secretary-General, to gather first-hand information, on the spot, from Israeli, Palestinian and other sources. He then asked the Acting Permanent Representative whether his Government had responded to his request for clarification. The latter replied that the Israeli Cabinet decision remained unchanged and that his Government did not wish the mission to come.

5. In the light of the above, the Secretary-General informed the Security Council, in a statement, in informal consultations on 19 October 1990, that he was not in a position to dispatch a mission to the area. He added that he remained ready to do so, should he receive word from the Israeli authorities that his delegation would not be barred from entry. Commenting on the Secretary-General's statement, members of the Council expressed the opinion that efforts should continue to be made to send a mission.

6. On 24 October 1990, the Security Council adopted resolution 673 (1990), which reads as follows:

"The Security Council,

"Reaffirming the obligations of Member States under the United Nations Charter,

"Reaffirming also its resolution 672 (1990),

"Having been briefed by the Secretary-General on 19 October 1990,

"Expressing alarm at the rejection of Security Council resolution 672 (1990) by the Israeli Government, and its refusal to accept the mission of the Secretary-General,

"Taking into consideration the statement of the Secretary-General relative to the purpose of the mission he is sending to the region and conveyed to the Council by the President on 12 October 1990,

"Gravely concerned at the continued deterioration of the situation in the occupied territories,

"1. Deplores the refusal of the Israeli Government to receive the mission of the Secretary-General to the region;

"2. Urges the Israeli Government to reconsider its decision and insists that it comply fully with resolution 672 (1990) and to permit the mission of the Secretary-General to proceed in keeping with its purpose;

"3. Requests the Secretary-General to submit to the Council the report requested in resolution 672 (1990);

"4. Affirms its determination to give full and expeditious consideration to the report."

7. On 25 October 1990, in follow-up to the transmittal of the text of the resolution the previous evening, a message was conveyed orally to the Government of Israel, through its Acting Permanent Representative to the United Nations, drawing to its attention paragraph 2 of resolution 673 (1990). On 31 October 1990, the Permanent Representative of Israel to the United Nations conveyed to the Secretary-General a letter, which reads as follows:

> "As you recall, my predecessor, Ambassador Bein, conveyed to you the Government of Israel's decision, of 14 October 1990, not to receive the mission referred to in Security Council resolution 672 (1990). In its decision, my Government reiterated that Jerusalem 'is the sovereign capital of the State of Israel. Therefore, there is no room for any involvement on the part of the United Nations in any matter relating to Jerusalem, just as the United Nations does not intervene in events, some even more severe, that occur in other countries'.
>
> "This decision was taken within the context of a longstanding policy of the Government of Israel. May I point out, for example, the exchange of letters of September-November 1971 between the Minister of Foreign Affairs of Israel at the time, Mr. Abba Eban, and the then Secretary-General of the United Nations, concerning Security Council resolution 298 (1971) on the situation in Jerusalem. In that instance, the Government of Israel declined to receive the envoys and the mission to Jerusalem mentioned in operative paragraph 5 of the resolution.
>
> "The decision of my Government also referred to the appointment of an independent commission of inquiry concerning the events of 8 October 1990. That Commission has now finished its work and submitted its findings to the Government. These findings have been made public, and the Government of Israel has decided to convey them in full to friendly Governments and other appropriate and interested organizations.
>
> "The full report of the Commission is currently being translated into English and will be forwarded to you immediately upon its completion. I therefore have the honour, at present, to convey to you the enclosed text of the full report in Hebrew and the summary of the report in English. I trust that you will find the contents of interest."

The summary of the report as received from the Permanent Representative of Israel is being issued separately as an addendum to the present report.

8. The Secretary-General has thus been unable to secure independent information, on the spot, about the circumstances surrounding the recent events in Jerusalem and similar developments in the West Bank and Gaza Strip. Widespread coverage has, however, been given by the international press to the clashes that occurred at Al-Haram Al-Shareef and other Holy Places of Jerusalem on 8 October 1990. According to reports, which vary, some 17 to 21 Palestinians were killed and more than 150 wounded by Israeli security forces, and more than 20 Israeli civilians and police were wounded by Palestinians. While there are conflicting opinions as to what provoked the clashes, observers on the spot, including personnel of the

International Committee of the Red Cross (ICRC), stated that live ammunition was used against Palestinian civilians. Attention is drawn, in this connection, to the fact that a number of inquiries have been conducted. Apart from the Commission of Investigation referred to in paragraphs 3, 4 and 7 above, several Israeli and Palestinian human rights organizations have conducted inquiries of their own. The findings of two of them, B'Tselem and Al-Haq, were communicated to the Secretary-General, on 14 October and 28 October 1990, respectively, and are being issued separately as addenda to the present report. Furthermore, a number of Israeli and Palestinian individuals and groups had expressed willingness to meet with and provide information to the mission of the Secretary-General, should it have been sent to the area for the purposes that he had outlined to the members of the Council.

9. It will be recalled that the Security Council, in its resolution 605 (1987) of 22 December 1987, addressed the question of the safety and protection of the Palestinian civilians in the occupied territories. In that resolution - which was adopted in the earliest days of the intifadah - the Council requested the Secretary-General to examine the situation in the occupied territories by all means available to him, and to submit a report no later than 20 January 1988 containing recommendations on ways and means for ensuring the safety and protection of the Palestinian civilians under Israeli occupation. On the basis of that mandate, and with the concurrence of the Israeli authorities, the Secretary-General was able to send a mission to the occupied territories to prepare a detailed report, including a set of recommendations, which was circulated on 21 January 1988 (S/19443). However, a resolution could not be adopted owing to the negative vote by a permanent member of the Council.

10. Since then, the Security Council has, on a number of occasions, met to consider the situation in the occupied Arab territories and it has adopted four resolutions specifically on the question of deportations. In resolutions 607 (1988) of 5 January 1988, 608 (1988) of 14 January 1988, 636 (1989) of 6 July 1989 and 641 (1989) of 30 August 1989, inter alia, the Council called upon Israel to desist from deporting Palestinian civilians and to ensure the safe and immediate return to the occupied Palestinian territories of those already deported. Further, the resolutions reaffirmed that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 13 August 1949, was applicable to the Palestinian territories occupied by Israel since 1967, including Jerusalem, and to the other occupied Arab territories. In each resolution, the Council decided to keep the situation under review.

11. In a presidential statement dated 26 August 1988 (S/20156), the members of the Security Council said that they were gravely concerned by the continued deterioration of the situation in the Palestinian territories occupied by Israel since 1967, including Jerusalem, and especially by the grave and serious situation resulting from the closing-off of areas, the imposition of curfews and the consequent increase in the numbers of injuries and deaths that had occurred. They said that they were profoundly concerned by the persistence of Israel, the occupying Power, in continuing its policy of deporting Palestinian civilians in contravention of Security Council resolutions and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, as

demonstrated on 17 August 1988 by its expulsion of four Palestinian civilians to Lebanon and its decision to expel 40 more. The members requested Israel immediately to desist from deporting any Palestinian civilians and immediately to ensure the safe return of those already deported. The members of the Security Council considered that the situation in the occupied territories had grave consequences for endeavours to achieve a comprehensive, just and lasting peace in the Middle East. They reaffirmed that the Geneva Convention was applicable to the Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem, and requested the high contracting parties to ensure respect for the Convention. Recalling Security Council resolutions, the members of the Council said that they would keep the situation in the occupied Palestinian territories, including Jerusalem, under review.

12. More recently, the issue of protection was addressed at length by the Security Council following an incident on 20 May 1990 in which an Israeli gunman killed 7 Palestinian workers and wounded 11 others at Rishon Lezion in Israel. In the ensuing demonstrations, which erupted throughout the occupied territories in protest against that incident, 17 Palestinians were killed and more than 1,000 wounded by Israeli security forces. During the Security Council debate that was held in Geneva on 25 and 26 May 1990, and in New York on 31 May 1990, nearly every delegation that spoke, including members of the Council, emphasized the urgent need of the Palestinians for protection. However, a resolution that, inter alia, would have established a commission consisting of three members of the Security Council to examine the situation in the occupied territories and recommend ways and means for ensuring the safety and protection of the Palestinian civilians under Israeli occupation was not adopted owing to the negative vote of a permanent member of the Council.

13. In a presidential statement dated 19 June 1990 (S/21363), the members of the Security Council strongly deplored the incident which had occurred on 12 June 1990 in a clinic belonging to the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) and located near to Shati camp in Gaza, in which several innocent Palestinian women and children were wounded by a tear-gas grenade thrown by an Israeli officer. Expressing dismay that the penalty imposed on that officer had been commuted, the members reaffirmed that the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, was applicable to the Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem, and requested the high contracting parties to ensure respect for the Convention. They called upon Israel to abide by its obligations under that Convention.

14. It should be noted that each of the above-mentioned resolutions and presidential statements, such as resolutions 672 (1990) and 673 (1990), reaffirm the applicability to the occupied territories of the Fourth Geneva Convention. In them, Israel is repeatedly called upon to abide by its obligations under the Convention. In this connection, it is useful to cite the articles of the Convention that underline the right to protection of the civilian population and that ascribe to the occupying Power certain responsibilities in this regard. Under the Convention, the civilian population in the occupied territories is entitled to

safety and protection, as clearly stated in its article 27, the first paragraph of which reads:

> "Protected persons are entitled, in all circumstances [emphasis added], to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times [emphasis added] be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity."

The responsibility of the occupying Power is underlined in article 29, which reads:

> "The Party to the conflict in whose hands protected persons may be, is responsible for the treatment accorded to them by its agents, irrespective of any individual responsibility which may be incurred."

An important responsibility is entrusted to the high contracting parties in the Convention's article 1, which states:

> "The High Contracting Parties undertake to respect and to ensure respect for the present convention in all circumstances."

15. For its part, Israel, itself a high contracting party, has consistently taken the position that it does not accept formally the de jure applicability of the Fourth Geneva Convention, but states that it has since 1967 decided to act in de facto accordance with the Convention's "humanitarian provisions". The Israeli position is not accepted by ICRC, which is the guardian of the Geneva Conventions of 1949, nor has it been endorsed by the other high contracting parties to the Fourth Geneva Convention. The position of the Security Council has, in this connection, repeatedly been made clear.

Observations

16. In the light of my reporting obligations under resolutions 672 (1990) and 673 (1990), I have given careful thought as to how I should do so, since it has not been possible to send a mission to the area subsequent to the adoption of these two resolutions. I have been guided by two principal considerations. First, that the tragic events of 8 October 1990 are only the most recent of many grave incidents in the occupied territories that have resulted in the deaths and wounding of a large number of civilians; these have once again caused the Security Council to discuss the question of the safety and protection of Palestinians. The second consideration has been that the responsibilities entrusted to me under resolutions 672 (1990) and 673 (1990) should be viewed in the context of earlier efforts that I have made in this connection.

17. It will be recalled that the principal recommendation of my 21 January 1988 report (S/19443) with respect to ensuring the safety and protection of the Palestinian civilian population was that the international community should make a concerted effort to persuade Israel to accept the de jure applicability of the Fourth Geneva Convention to the occupied territories and to correct its practices

in order to comply fully with that Convention. My report also described certain steps that I intended to take, within existing arrangements, to improve the safety and protection accorded to the population by the international community. Foremost among the latter was my suggestion that the Commissioner-General of UNRWA should examine the addition to UNRWA's establishment in the occupied territories of extra international staff to improve the general assistance they provide. Since then, the number of international staff serving with UNRWA in the occupied territories has increased from 15 to 51. These additional staff members have helped to defuse tense situations, avert maltreatment of vulnerable groups, reduce interference with the movement of ambulances, and facilitate the provision of food and medical aid during curfews. In this connection, it should also be noted that the size of the international delegation of ICRC - which, under the Fourth Geneva Convention, has a definite role with regard to protection in the occupied territories - has increased from 15, in December 1987, to 45 today.

18. The additional presence in the occupied territories of international staff of these organizations has been welcomed by the Palestinians, but they add that, given the exceptional circumstances in which they are living, it has not had the necessary impact on the behaviour of the Israeli authorities. If anything, the message that is repeatedly conveyed to me by the Palestinians - whether in meetings with the leadership of the Palestine Liberation Organization (PLO) or personalities from the occupied territories, in numerous communications and appeals sent to me from groups and individuals in the area, or in conversations that members of my staff have had with individuals from all walks of life in the territories - is that far more is required on the part of the international community to ensure the safety and protection of the Palestinian civilian population in the occupied territories.

19. While it would not be possible for me to summarize in a few paragraphs the intensity of the feeling that has consistently been conveyed to me both in conversations with and in appeals by Palestinians, I would like to comment on several recurring themes that emerge from them. Palestinians have expressed a profound feeling of vulnerability at all times, whether in the workplace, at school, in places of worship or simply walking down the street. This fear was compounded by their view that there was no recourse to any authority, other than the security forces who were so often responsible for the measures inflicted upon them. They have stated that they felt unsafe even inside their homes, which were frequently subjected to midnight searches, and during which entire households, including children, were beaten. It was said that arrests during such operations were common. A wide range of collective punishments had, they said, become routine during the past three years, such as curfews, the demolition of homes, administrative detention and the uprooting of trees. A system of arbitrary and heavy taxation had been imposed, which, if not complied with, might lead to the confiscation of personal property and even arrest. Furthermore, the Palestinians have complained bitterly about a number of longstanding Israeli practices: the taking of land, especially for Israeli settlements and the privileged access that these settlements were given to water supplies; the closure for prolonged periods of the universities, and the periodic closure of elementary and high schools, which, in the Palestinian view, amounted to a denial of their right to education; and the overall economic exploitation of the territories.

20. Palestinians emphasized that their distrust of the Israeli occupation authorities - be they the security forces charged with maintaining law and order or officials of the Civil Administration whose role affected most aspects of their daily lives - had grown so deep that they felt that only an impartial presence, properly mandated by the United Nations, would be able to provide them with a credible sense of protection. In this connection, many of them drew attention to the military observers stationed in Jerusalem at the headquarters of the United Nations Truce Supervision Organization (UNTSO), and inquired why they could not be assigned to monitor the situation in the occupied territories. While they expressed appreciation for the humanitarian efforts carried out by representatives of international agencies and voluntary agencies, they were nevertheless deeply frustrated that those organizations were prevented from intervening or unable to intervene more effectively on their behalf.

21. During the past three years, I have had occasion to meet with a number of senior Israeli officials in New York, and have frequently voiced to them my concern about the situation in the occupied territories. In discussions with me, and with members of my staff in the area, the Israeli authorities have maintained that measures such as administrative detentions, curfews and the closure of schools and universities have been carried out in order to restore calm in the territories. Israel's position has been, and continues to be, that it retains exclusive control over the territories it administers. Furthermore, the Israeli authorities point out that even under the Fourth Geneva Convention it would be for them to maintain law and order in the territories. According to them, their policy during the past three years has been to put an end to the unrest in the territories which, in their view, is fomented by elements from outside. They note that the security forces are adhering to strict regulations determined by the Minister for Defence and that violations of those regulations are punishable. In response to expressions of concern regarding the need for the safety and protection of the Palestinians, the Israeli authorities point out that the many Palestinians who have been killed by other Palestinians should be a matter of equal concern to the international community.

22. The Security Council will recall that towards the end of June 1990 I sent a Personal Representative to the area to look into the question of protection in the occupied territories and to report back to me personally. On 13 July 1990, in a statement to the Council in informal consultations, I said that I intended to pursue my initiative with the Israeli authorities in an effort to persuade them to comply fully with their obligations under the Fourth Geneva Convention. At the same time, I stressed that if the high contracting parties felt that further measures - such as the designation of a Protecting Power - were required, then it was up to them to take such a decision under procedures that were carefully spelled out in the Fourth Geneva Convention.

23. Had it been possible for me to send a mission to the area at the present time, it would have followed up on the discussions begun last summer with the Israeli authorities and the Palestinian leadership. The Israeli authorities indicated at that time that they would be implementing new measures in the territories. It should be noted that, in the subsequent months, there was a decreased military presence in the occupied territories and a decline in casualties resulting from

actions involving the Israeli security forces there. Further, there has also been a reopening of certain academic institutions. Nevertheless, the essential facts of the occupation have not changed and the potential for friction and confrontation between Israelis and Palestinians has remained very high, as evidenced by the tragic events of 8 October 1990. The spate of violent attacks that have occurred since then, with more bloodshed on both sides, has generated further mistrust and bitterness.

24. The issue before us today is what practical steps can, in fact, be taken by the international community to ensure the safety and protection of the Palestinian civilians living under Israeli occupation. Clearly, the numerous appeals - whether by the Security Council, by myself as Secretary-General, by individual Member States or by ICRC, which is the custodian of the Geneva Conventions - to the Israeli authorities to abide by their obligations under the Fourth Geneva Convention have been ineffective. It is evident that for any measure of protection to be ensured, the co-operation of the Israeli authorities is, under the present circumstances, absolutely essential. Nevertheless, given the special responsibility of the high contracting parties for ensuring respect for the Convention, the Security Council might wish to call for a meeting of the high contracting parties to discuss possible measures that might be taken by them under the Convention. As regards the Palestinian appeals, referred to in paragraph 20, for an impartial presence, properly mandated by the United Nations, this is a matter on which the Security Council would have to decide: the mandates for the United Nations personnel in the area, whether civilian or military, derive from the competent United Nations bodies and the Secretary-General does not have the competence to act on his own.

25. It would be misleading to conclude this report - which has focused essentially on the need to ensure the safety and protection of the Palestinian civilians living under Israeli occupation - without underlining that it is a political conflict that lies at the heart of the tragic events that led to the adoption of Security Council resolutions 672 (1990) and 673 (1990). The determination of the Palestinians to persevere with the intifadah, is evidence of their rejection of the occupation and their commitment to exercise their legitimate political rights, including self-determination.

26. It is essential, in these circumstances, that progress be made, and soon, to ensure an effective negotiating process, acceptable to all, that can secure the interest of both Israelis and Palestinians, and enable them to live in peace with each other. For my part, I will do whatever I can to be of help.

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Corrigendum

Paragraph 14 line 2

For such as read as is the case with

Paragraph 24 line 6

For custodian read guardian

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REPORT SUBMITTED TO THE SECURITY COUNCIL BY THE SECRETARY-GENERAL
IN ACCORDANCE WITH RESOLUTION 672 (1990)

Addendum

The present addendum contains the report received from B'Tselem referred to in paragraph 8 of the Secretary-General's report.

בצלם
מרכז המידע הישראלי לזכויות האדם בשטחים
"بتسيلم" مركز المعلومات الاسرائيلي لحقوق الانسان في الأراضي المحتلة
B'TSELEM - The Israeli Information Center for Human Rights in the Occupied Territories

LOSS OF CONTROL

The Temple Mount Events - Preliminary Investigation

Investigated by: B'Tselem team and volunteers
Legal advisers: Avigdor Feldman, Moshe Negbi

English Edition by: Prof. Stanley Cohen, Isabel Kershner,
Ralph Mandel & Yuval Ginbar.

14 October, 1990

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INTRODUCTION

Temple Mount, Jerusalem, Monday 8 October, 1990, about 10:30 in the morning: clashes broke out between police and border police forces, and the thousands of Muslims gathered in the Temple Mount complex - Al-Haram al-Sharif.

In the course of the confrontation, Muslims attacked security force members at the scene, threw stones and most probably other projectiles too over the Wailing Wall into the square below, and set fire to the police point on Temple Mount. The police and border police used teargas, rubber bullets and a large amount of live ammunition to disperse the thousands of people gathered inside the Temple Mount complex.

The events took place over a period of one to two hours. By the end, there were 21 Palestinians killed and more than 200 hundred Palestinians injured.[1] Two police and four border police were reported lightly injured. In addition, 22 Israeli citizens were reported injured, hit by stones. Most of the Israeli casualties were discharged from hospital in the 24 hours following the incident.

B'Tselem's investigation found that the security forces shot indiscriminately, and that even if policemen's lives did appear to be in danger, as official sources claim to be the case, the shooting carried on for a long time after this danger had passed. According to the Investigation's finding, a particularly serious incidence of indiscriminate shooting concerns the attacks on ambulances and medical teams.

The investigation presented below is based on official public statements - especially those made from within the senior ranks of the Israeli police - and on affidavits and testimonies collected by B'Tselem teamworkers and volunteers from Palestinians who witnessed the actual incident, or the events which occurred immediately afterwards.

This report does not present a chronological account of the events from beginning to end. Each one of the eye-witnesses saw a small part of the whole mosaic and B'Tselem does not have enough witness accounts to put together a complete and true picture of the event. Therefore unlike the usual B'Tselem reports, this report does not

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1/ On 25 October 1990, B'Tselem added the following: "According to the latest information available to B'Tselem, at least 17 Palestinians died as a result of shooting by security forces on the Temple Mount. Another Palestinian died from wounds sustained by shots fired, according to some sources, by an Israeli civilian in the Old City at the time of the Temple Mount events."

give a detailed, through description of incidents of unjustified violations of human rights. This is not to say that this inquiry is less reliable or less precise than others but that it concentrates on a number of general phenomena that describe the event. It analyses them on the basis of the experience and information that B'Tselem has gained in incidents of a similar nature in the past.

B'Tselem chose to publicize this report now in order to contribute from this experience and to draw attention to the serious problems in the methods of the security forces in the events on the Temple Mount, and in relation to the information given to the public about these events.

You may ask why B'Tselem saw the need to publicize this report when a commission of inquiry has been appointed by the Minister of Police? The answer to this is on several levels. B'Tselem seeks, by this report, to contribute to the Commission of Inquiry its findings and experience in analyzing these kinds of events. This could have been done in the usual way by appearing before the Commission of Inquiry, and not by publication of a report. B'Tselem chose this public way because of the strong and unambiguous messages given to the Commission of Inquiry by the Prime Minister and the Minister of Police: that the security Services acted according to the law, that they were justified and that the only guilty people are the disorderly Muslims on the Temple Mount. These Messages are an unjust interference in the work of the committee and create a framework of government pressure to draw certain conclusions. Things explicitly in this spirit were said - amongst others - by the Minister of Police in an interview he gave the "Morning News" on Army Radio on 12.10.90

The doubts that are raised in this report point to the necessity of setting up a through investigation of what happened, to be held by a state Commission of Inquiry with wide-ranging powers and headed by a judge. As much relevant information as possible should be presented before such an inquiry, including testimonies of key witnesses, who, it appears from this preliminary report, are to be found among the Arab population. Only an independent Commission of Inquiry could compel these witnesses to appear before it.

BACKGROUND

For the two weeks preceding the confrontation a very tense atmosphere hung over east Jerusalem and the Muslim community in general, in the light of reports that the "Temple Mount Faithful" group intended going up on Temple Mount on the Monday of Succot, as they do every year at this time, to perform the ceremony of laying a cornerstone for the Third Temple. The Muslims were called to gather for prayers at the mosques on Temple Mount on the Monday. We do not know of any preparations for violent action.

Because disturbances had broken out in east Jerusalem's schools a year ago on this date, the Jerusalem municipality closed the schools in the east of the city on Monday, and the students were sent home. After the event, it emerged that the closure of the schools meant that many of the students joined the large gathering on Temple Mount that Monday morning.

The "Temple Mount Faithful" group petitioned the High Court for permission to hold the stone-laying ceremony on Temple Mount but their plea was rejected. The state attorney presented a declaration on behalf of the police, in response to the petition, from which it emerges that the police had intelligence that disturbances were expected on Temple Mount during the week of Succot as a result of the planned actions of the "Temple Mount Faithful" group. (For contents of the declaration, see appendix A).

Chief Superintendant Arieh Bibi, Jerusalem police commander, says that he sent a policeman to inform the Mufti's deputy that the "Temple Mount Faithful" group's plea had been rejected, and that they would not be going onto the mount. But it seems that this was not enough to defuse the tension, and the rumor spread in the crowded mosques on Temple Mount that the Jews planned to enter the mosques.

The Israeli Police deployment for Monday consisted of a force of 45 border policemen under the command of Deputy Superintendant Qa'tabi, Commander of the Wailing Wall section. This group was stationed within the Temple Mount complex, along the wall between the Mugrahbi gate and the Mahkama building, with its back to the Wailing Wall. A few more border police (five or six) were stationed in a look-out post on top of the Mahkama. (See map of Temple Mount, appendix J).

SEQUENCE OF EVENTS

Stage One - the Start of the Clashes

10:00

About 50 members of the "Temple Mount Faithful" group set out with a police escort in the direction of the cave at Shiloah, and perform the ceremony of "pouring the water" there. The "blessing of the priests" is meanwhile taking place in the square before the Wailing Wall, with 25-30,000 worshippers in attendance according to Rabbi Yehudah Getz, the officiating rabbi at the Wailing Wall.

10:40 (approximately)

The "blessing of the priests" at the Wailing Wall finishes. Most people disperse, leaving some 10,000 worshippers in the square.

At this point, young Muslims in the courtyard before the mosques attack Border Police members with stones (We have not managed to clarify what triggered the attack at this point. It appears from certain testimonies that a rumor spread claiming that the "Temple Mount Faithful" group were about to come up on the mount). The forces respond with teargas. Thousands of Muslims standing at some distance away, between the mosques, who are probably unaware of the stone-throwing, are under the impression that teargas was fired for no reason. They charge towards the police and throw stones and other objects at them (Many of the witnesses we interviewed claimed that the teargas was fired without any provocation from the Muslims gathered on Temple Mount). The forces respond with teargas and rubber bullets,but three or four minutes later, after many of the forces have been hit by stones, they retreat from Temple Mount leaving by the Mugrahbi gate, which closed behind them.

The forces on the roof of the Mahkama building remain in position, and are probably firing teargas and live ammunition at the throng. The first casualties occurred at this point.

A short while later, a police helicopter arrives and circles

above Temple Mount. At the same time, teargas is fired at the crowd (According to Palestinian sources, the gas was fired from the helicopter itself. We do not have firm evidence that this was the case. It could in fact have been fired from the roof of the Mahkama building).

Another group of rioters attacks the police point on the mount. Two people are inside the station at this time: a log-recorder, Daud 'Alan, a resident of Jabel Mukabbar, and a cleaner, Kamal 'Asi'a. The cleaning worker escapes and hides in the Waqf stewards' rooms, next to the police point.

The log-recorder informs his commanders by means of communications equipment at his disposal that "they are coming up to the police point", then contact is cut off. Immediately afterwards, the Waqf stewards arrive and rescue the log-recorder who is not injured, and he too takes refuge in the Waqf stewards' rooms.

The rioters set the police point on fire. A police look-out (probably the police on the Mahkama roof) reports to the police command that the police point is on fire.

10:45

After the Border Police force has vacated the area, the rioters advance and throw stones over the wall. Stones rain down onto the Wailing Wall square below. Most of the Jewish worshipers find cover, and within a few minutes, the square has emptied. The stone-throwing continues for some 15-20 minutes.

Stage Two - the Security Forces Break Back in to the Temple Mount Complex

11:00 (approximately)

A force of about 200 police and border police rush into Temple Mount in two groups, the first through the Chain gate, and the second through the Mugrahbi gate. They fire bursts of live bullets from automatic weapons at the crowd standing before them. This according to police and Border Police quoted in the press, occurred without a command to open fire

having been given. AT this stage, Border Police members stated to the media, the crowds assault on the was much fiercer than it was before the withdrawal.
Most of the casualties are hit at this point, and fall in the courtyard between the Al-Aqsa mosque and the Dome of the Rock, at a distance of 40-70 meters from the gates through which the border police burst in. According to some versions, the shooting went on for 30-40 minutes. Alternative versions have the shooting continuing for more than an hour.

11:10 (approximately)

According to some eye-witness accounts, the Imam of the mosque calls through a loud-speaker for the security forces to stop shooting, and his instructions to the people in the courtyard are that the men should go into the al-Aqsa mosque and the women into the Dome of the Rock. The shooting doesn't stop.
The wounded are taken into the mosques. The first ambulances arrive through the Lions' gate to remove the injured. Border police and regular police carry on chasing Palestinians. The shootings of live bullets goes on, even though at this stage, clearly, the forces were not in any obvious danger. Security force members detain large numbers of people and gather them together in the courtyard before the mosques.

FACTS AND FIGURES

In the clashes, 21 Palestinians were killed (see appendix B for a list of names of the victims). About 200 were injured, and about 120 were detained (among which were more than 30 minors). About 20 Jewish worshippers were lightly injured by stones, and 6 police were injured. Most of the Jewish casualties were sent home from hospital within 24 hours.

Two of those killed were buried quickly in the Temple Mount area. The Augusta Victoria hospital received seven bodies of people killed by live bullets. Also, the body of a woman who died from teargas inhalation was brought there, and about 120 people who were injured, most of whom suffered light injuries and were sent home during that same day. By Thursday, 11 October, five of the injured remained in the hospital. Their injuries were described as "medium".

Al-Maqassed Hospital received the bodies of nine people killed by live fire, along with 90 injured. Two of those injured (by live bullets) died on the operating table, 12 were transferred to other hospitals, and about 37 suffering from the effects of teargas and beatings were treated and sent home. By Thursday, 11 October, 30 of the injured remained in the hospital, including 25 who suffered light injuries from plastic and rubber bullets, and five whose injuries were described as medium, having been shot in the upper body with live bullets.

Several injured people arrived at the French hospital, but we do not have precise details of their numbers or types of injury.

Hadassah hospital at Ein Kerem received two injured Palestinians, one of whom lost a lung and was admitted to intensive care, and the other of whom received a slight injury to his ankle. 22 Israeli casualties also arrived at Hadassah Ein Kerem, all of whom were lightly injured.

THE USE OF LIVE BULLETS

The general principles pertaining to orders for opening fire (which are given full explanation in the police and IDF instructions on opening fire) state that the use of lethal weapons is justified only as a last resort, when there is perceived to be an immediate and grave danger to police or army forces, or to persons the police or army are mandated to protect.

The opening of fire, particularly by a large force, has to be controlled. The orders on opening and holding fire include an absolute ban on indiscriminate shooting over an extended area where there are civilians who do not present any real danger to human life. It is prohibited to shoot bursts from an automatic weapon (shooting from the hip without taking aim). Such use of firearms is justified only as an instinctive reaction for survival, when faced with an immediate threat that leaves no time for a more considered response.

Superintendent Danny Chen, Firearms Officer of the Israeli police force, testified in the Jerusalem district court (in the case of Ze'evi vs. the State of Israel) that shooting from the hip is not exact, and is very dangerous. In the same case (Criminal Appeal 26/89, Ze'evi v. State of Israel, Judgments 43(4) 633) Supreme Court Justice Dov Levin stated:

> "Shooting from the hip is dangerous, imprecise and uncontrolled. Firing of this kind other than in a situation of severe stress, such as self-defense and the need to survive, is undesirable, although it does occur in high-pressure situations. Therefore, as a rule, it can be stated that a person who opens unaimed fire from the hip is using his weapon with considerable negligence, bordering on gross negligence or criminal negligence (emphasis added).

The rules of engagement of the Israel Police state that the use of firearms is justified only in defined special cases, and only if it is clear that the policeman who opens fire has no other means to ensure the implementation of his task. The orders add that a policeman who is about to open fire must first state his intention to do so. (See: Israel Police Standing Orders, 06.02.14--Use of Firearms.)

The international standards for the use of force also affirm categorically the principle that firing shall be carried out only in case of necessity, and the principle of proportion (between the degree of danger and the nature of the reaction).

From the sequence of events described above, it is not certain that the necessity to open fire existed and that the police had no possibility of getting control of the rioting mob and of defending themselves against the danger they faced by using other means.

In the first stage, a relatively small Border Police force was attacked by a wild crowd, and the descriptions in our possession indicate that the force was in fact in danger. According to the testimony of the force commander (Yediot Ahronot, Oct. 10), at this stage his men fired rubber bullets and used teargas, but not live ammunition. It bears noting that the force was not equipped with standard means of protection that are in use everywhere, such as fiberglass shields.

In the second stage, a large force of police and Border Police broke into the Temple Mount complex. They fired in bursts into the crowd (i.e., their rifles were set to "automatic" and not to "single-shot"). Firing of this kind, which is inherently indiscriminate, cannot be considered justified even in a situation of mortal danger. Even if the lives of the policemen were in concrete danger at the start of the incident, and even if they had no choice but to open fire--as the Minister of Police and the Chief of Police claimed--single-shot firing could have achieved the goal.

We did not form the impression that in the second stage of the incident--in which there was shooting in bursts from the hip--the police and Border Police found themselves in such an extreme state of self-defense that the immediate fear of survival could not enable a judicious reaction and controlled firing. The Supreme Court's comments concerning criminal negligence, which referred to a single person's firing in bursts, become far more pointed and trenchant when the shooting is done by a large number of persons firing automatic weapons into a big crowd some of whom are fleeing--as is evidenced by the appalling results of the shooting.

Although the second stage of the incident saw a counter-offensive initiated by the police and Border Police, we did not form the

impression that this offensive was planned thoroughly or that a minimal hierarchy of command, control and supervision existed. In particular, it is our impression that there was no firing-control whatsoever, that no command to open fire was given from any single source, and that no single source was on hand who had the ability to stop the shooting. Police and Border Police fired automatic bursts of live ammunition indiscriminately into the crowd.

This is apparent from the comments of the policemen themselves, as quoted in the media--their remarks suggest that no order was given to open fire--and from statements by eye-witnesses, all of whom tell of indiscriminate fire into the crowd across a very broad area, in which people in flight were also shot. We did not form the impression that at this stage either the Border Police, the police or the worshippers at the Wailing Wall were in mortal danger. Indeed, by this time the Wailing Wall square had already been vacated.

Nor did we form the impression that at this stage consideration was given to the use of alternative means. We did not discern the gradual use of increasingly potent means--i.e., teargas, "rubber" bullets, plastic bullets, and only then live ammunition. It appears that all these means were used simultaneously, with live ammunition being fired at the same time that teargas and less lethal ammunition were in use. Likewise, no attempt was made to speak with those on the Temple Mount or to individuals at the scene who might have been able to use their influence to calm passions.

The question of the intensity of the danger is crucial when one examines the justification for opening fire. As noted, the standing orders of the Israel Police stipulate that fire shall be opened only in case of concrete danger to life and if it is not possible to make use of other means.

The security forces who took part in the Temple Mount incident were equipped with limited means of self-defense. They had helmets, but, as mentioned, they did not have fiberglass shields which could have helped protect them against the volleys of stones they faced and thus eliminated the necessity to defend themselves by opening fire. It is not clear whether the force that broke in to the Temple Mount complex had sufficient quantities of teargas

and rubber bullets.

The findings about firing at ambulances and medical teams show a particularly grave instance of indiscriminate shooting (see below: Evacuation of Casualties). The ambulances were properly marked and easily identifiable, and their activity at the scene in evacuating casualties and extending medical aid was open and apparent. There is no justification for attacking medical personnel and ambulances. If the shooting at them was deliberate, this is a serious crime by any criteria; and if it was accidental, with ambulances being hit because they were in an area that was being sprayed with live fire, this is proof of the eye-witnesses' allegations of indiscriminate shooting. The fact that ambulances and medical personnel were hit shows also that the firing went on beyond the brief initial stage of danger and continued into the stage when there were already fatalities and wounded, when rescue crews and medical teams had reached the scene. One way or the other, the very fact that ambulances and medical teams came under attack by shooting and teargas, obligates a thorough investigation which will examine this aspect of the incident as well.

EVACUATION OF CASUALTIES AND ATTACKS ON MEDICAL TEAMS

Some testimonies by members of the medical teams refer to the difficulties of evacuating the casualties, and especially the manner in which the work of the teams was interfered with.

B'Tselem has the testimony of a male nurse who was shot in the chest with live ammunition as he ran to give first aid, carrying an infusion apparatus and other medical equipment. (See Appendix H)

A nurse from Al-Maqassed Hospital was hit by three live bullets and her right hand shattered while treating casualties in an ambulance. teargas was also fired at the ambulance. (See Appendix F)

A doctor from Al-Maqassed Hospital testified that live ammunition was also fired at his ambulance. (See Appendix G)

The Red Crescent Organization stated that one of its ambulances was stopped three times on its way from the Red Crescent clinic in al-Bira to the Temple Mount at the outset of the clashes. Police and Border Police made a thorough search of the vehicle thus delaying its arrival at the Temple Mount by at least 15 minutes. At the Lions' Gate the ambulance was stopped once more and the crew was forced to make its way to al-Aqsa mosque (where the wounded were brought) on foot, again wasting precious time. The Red Crescent statement adds that Border Police aimed their weapons at the crew on several occasions (even though they were medical uniforms) and fired teargas at the ambulance.

According to the Red Crescent statement, a Border Policeman threatened to kill one of the wounded if he was treated by a Red Crescent doctor. "He's an Arab, he has to die," the Border Policeman said, according to the doctor.

From about 11:30 a.m., wounded people who had been evacuated from the Temple Mount began arriving at Al-Maqassed. At approximately noon, teargas was fired next to the hospital, apparently in an attempt by the security forces to disperse people who had gathered there in order to look for relatives. A few tear-gas canisters were fired at the hospital's maternity ward, breaking three windows and a glass door. The ward was filled with teargas and the hospital staff had to evacuate patients and infants from their

rooms. (See Appendix I)

Attacks on medical teams, ambulances and hospitals constitute a grave infringement of universal humanitarian rules that afford special protection to medical personnel and medical vehicles that are engaged in evacuating casualties. Articles 35-37 of the First Geneva Convention, Articles 16-21 of the Fourth Convention, and Articles 8-21 of the 1977 Geneva Protocol stipulate categorically that free access must be given to medical teams bent on assisting casualties, that such teams are entitled to special protection, and that under no circumstances are hospitals and vehicles intended to extend medical aid to wounded persons to be attacked. These directives set international standards which are accepted by all civilized nations.

SECURITY FORCES' BEFORE DEPLOYMENT AND DURING THE EVENTS

According to statements made to the media by the police and an affidavit submitted to the High Court of Justice in response to a petition by the Temple Mount Faithful, the police had information that the presence of the Temple Mount Faithful was liable to trigger rioting. This information confronted the police with a dilemma: it was feared that Muslims would regard the reinforcement of the forces stationed on the Temple Mount as a provocation.

The police thought, as reported in the media, that the court's rejection of the Temple Mount Faithful's petition--thus cancelling the ceremony the group had planned to carry out on the Temple Mount--was sufficient to ensure that there would be no rioting. It was evidently this assessment which underlay the decision to station only 45 Border Policemen on the Temple Mount. In retrospect, this was clearly a mistaken decision.

The leaving of a single policeman at the police point on the Temple Mount was undoubtedly a major mistake. It is probable that had the police point been vacated altogether, or, alternatively, had a full complement of police been deployed there, a situation would not have arisen in which contact with the point was cut off, leading to the fear that the log-recorder was being lynched.

B'Tselem's investigation shows that the log-recorder escaped unharmed (see below: Flaws in Reporting), but because contact was cut off with the police point, this fact was not known to his superiors. The latter feared, and with reason, that a delay in the entry of reinforcements to the Temple Mount complex might cost the life of this policeman. In an interview with Nahum Barnea (Yediot Ahronot, Oct. 10), Jerusalem police chief Arieh Bibi was asked: "Had it not been for that policeman, would different means have been used to restore order?" Bibi's reply: "It is possible that we would have exercised greater moderation in going in."

The testimonies in our possession about the actions of the security forces during the events raise a number of searching questions:

- Was there a detailed plan of action in the event of riots, and were the forces briefed in detail in advance?
- Who was the responsible commander in the field? In view of

/...

the information about expected disturbances. Why was the national police chief not present?

- How was the combined operation of the different forces present (police and Border Police) coordinated?
- Was a situation appraisal carried out following the withdrawal of the Border Police force from the Temple Mount?
- In what forum was the decision made to break in to the Temple Mount complex?
- Was the breaking-in operation planned in detail?
- Were the police and Border Police who took part in the breaking-in operation briefed?
- What orders did the breaking-in force get about opening fire?
- Who was in command of the force?
- Did the force have sufficient quantities of teargas and rubber bullets?
- Why was the force not equipped with fiberglass shields?

FLAWS IN REPORTING

On Monday afternoon, just hours after the end of the Temple Mount clashes, the media were given the police version of events--that this had been an organized attack planned well in advance. According to this version, as provided to the media by the Minister of Police, the national Chief of Police and the Jerusalem police chief, Muslims had prepared large caches of stones and iron rods on the Temple Mount in order to attack the Jewish worshippers at the Wailing Wall below. Police Minister Milo: "The attack on the worshippers at the Wall was well-planned, without reason and without warning. This was a pre-planned provocation. It is probable that the rioters were sent into action by outside instructions, with the aim of diverting world public opinion [sic] from the Gulf" (Hadashot, Oct. 9).

In the police version it was clear that the police on the Temple Mount faced concrete mortal danger and had no choice but to open fire in order to get control of the mob. National police chief Terner: "The police were in danger of their lives; they had no choice but to react as they did" (Ha'aretz, Oct. 9). Milo: "The forces behaved with great restraint, and not until the police were in mortal danger did we open fire at anyone" (Yediot Ahronot, Oct. 9).

It was also stated that the rioters severely beat a policeman--the log-recorder in the police point on the Temple Mount. (See Jerusalem police chief Bibi's remarks, Hadashot, Oct. 9.)

In the 24 hours that followed, a new version began to be voiced, to the effect that the attack had been spontaneous and unplanned. It turned out that the stones which ostensibly had been prepared in order to attack the worshippers at the Wall were in fact stones which had been brought to the Temple Mount as part of ongoing renovation work there.

At the same time, it emerged that, effectively, when the Border Police opened fire, the Jewish worshippers at the Wailing Wall were no longer in danger--they had been evacuated within minutes in a commendable operation. Nor was the Border Police force in danger at this time.

The log-recorder, said by the Jerusalem police chief to have been

severely beaten by the rioters and hospitalized. in fact escaped unscathed according to B'Tselem's investigation (see above, p. 15). Another wounded policeman whose name was mentioned is Murashad al-Tawil, who according to B'Tselem's investigation was stationed at one of the gates (Bab Khuta) and sustained a scratch on his forehead from a live bullet (evidently a stray bullet fired by the force that broke in to the Temple Mount complex). Another policeman, Amir Abd, who was stationed at the Iron Gate, was in fact attacked and beaten by rioters. He was later extricated by an employee of the Waqf.

CONCLUSIONS

This report is a preliminary investigation which does not pretend to present the full picture. We do not have enough facts about the sequence of events on the Temple Mount and about the actions of the security forces. We have not cited facts about which we had doubts or which were unclear, and we have stated our reservations about any such facts that we have cited.

The testimonies collected by B'Tselem point to a series of faults (specified below) which apparently occurred during the actions of the police, the Border Police and their superiors. We believe that each of these faults must be examined thoroughly by whatever body has been appointed or will be appointed to investigate the events on the Temple Mount.

1. The Temple Mount incident exacted a very heavy price in human life and in injury to persons who were in the vicinity of the Temple Mount. These lethal results are consistent with well-documented situations of indiscriminate fire into a large crowd of people.
2. The small number of casualties among the security forces and Jewish civilians, and the relatively light character of their wounds, raises questions about the degree of danger that confronted the security forces personnel and the people whom they were charged with protecting--and thus about the justification for the acute reaction.
3. If there were stages in which concrete mortal danger existed, these were brief stage at the outset of the riot, this being the stage in which most of the security personnel and the worshippers were hurt--yet precisely in this stage virtually no use was made of live fire.
4. As the testimonies show, in the stage of the security forces' counter-attack, shooting took place in bursts of unaimed automatic fire from the hip, spraying a large area. This is an extremely dangerous and prohibited form of shooting, and according to a ruling of the Supreme Court it constitutes an act of criminal negligence on the part of those who did the shooting.

5. According to our investigation, the firing continued even while the crowd was dispersing in every direction and many were fleeing, as well as at the stage in which ambulances and medical teams arrived at the scene.
6. The investigation shows that no gradual use was made of alternative means to live ammunition, and that no attempt was made to talk with people who were on the Temple Mount and who might have been able to calm the situation.
7. The investigation shows that no hierarchy of command, supervision and fire-control existed at the site, and if there was such a hierarchy it did not function properly. According to their own testimony, security forces personnel opened fired without being ordered to do so. There was no source with the ability to order and oversee the execution of the standing rules of engagement.
8. Ambulances and medical teams were hit in the course of the shooting. Whether this was deliberate or whether it occurred as a result of indiscriminate fire, it constitutes a grave violation of universally accepted humanitarian and legal principles.
9. In B'Tselem's assessment, the information given to the public about the events was for the most part imprecise, thus raising the suspicion that attempts were made to hide facts, mislead the public, give "backing" to the security forces, and evade responsibility.

A Commission of Inquiry has been set up which has no powers and which is not headed by a judge, meaning that it has no independent standing. This committee will not be able to compel witnesses from the Arab population--who for various reasons will hesitate or even refuse to cooperate with an examining committee--to appear before it.

Furthermore, the Prime Minister, the Police Minister and other ranking political figures have publicly communicated to the Committee the message and the expectation that it will find that the security forces acted properly.

B'Tselem believes that only a judicial Commission of Inquiry, with the power to compel witnesses to testify before it, will enjoy the

independent standing that will enable it to disregard the kind of message that the present committee is getting from the Israeli government, which with good reason views the matter as extremely sensitive and important--an issue with far-reaching implications for Israel's international standing and its connection with the holy places in Jerusalem.

APPENDIX A

Excerpt from the response by the State Prosecutor's Office to a petition filed by the Temple Mount Faithful (High Court of Justice 4184/90)

1. Prior to he Tabernacles Festival in 1989, the petitioners requested to lay a symbolic cornerstone to a house of prayer on Temple Mount. The request to lay the cornerstone was refused. The petitioners requested a route - similar to the one requested this year - for carrying the cornerstone from Dung Gate to the Shiloah Fountain and back. This plan did not materialize as will be explained below.

2. Even before the truck carrying the cornerstone arrived at Dung Gate (which was to be the gathering point), serious disturbances broke up in the Temple Mount area and the nearby periphery which included: stone throwing at passers by, blocking roads and traffic routes and mass gatherings on Temple Mount.
Many of the rioters were questioned and it appears from their questioning that the reason for the mass rioting was the intention of the Temple Mount Faithful to lay the cornerstone. Further strengthening to this statement regarding the reason for the rioting was found in talks conducted with Waqf personnel.

3. It should be clear that before the event which was to take place last year, the Temple Mount commander briefed the Islamic Waqf personnel to the effect that the police would not allow the Temple Mount Faithful entry into the Temple Mount area with the cornerstone. Despite the police' announcement, and before the cornerstone had been laid down, the serious disturbances broke out, as described above.

4. Daily rioting on the roads leading to the Wailing Wall, and in the Silwan area at the present, including occasional disturbances on Temple Mount itself, have led to the inevitable conclusion that carrying the

cornerstone in the vicinity of Temple Mount would evoke serious disturbances on a very large scale, which would render them difficult to control, while it should be added that on the very same day and hours, events in which masses participate take place in Jerusalem, which necessitate the deployment of very large forces for security and traffic control. The events include: the Jerusalem march, with about 50,000 participants, crowd drawing events in Sacher Gardens, intended for about 50,000 people, open house events in Israel's Presidential Residence with many thousands participating, the traditional pilgrimage to Jerusalem in which many thousands participate, most of whom will reach the Wailing Wall area, the Birkat Kohanim (the blessing of the priests) ceremony at the Wailing Wall square in which many thousands will participate.

d. As for the tabernacle that the petitioners request to erect on the path leading to the Mugrahbi Gate a few meters from the gate, the following should be clarified:

The path under discussion is narrow, runs over a raised mound of earth and is used for passage by worshippers and visitors to Temple Mount. This path is a major route for the deployment and entry of police forces into Temple Mount during disturbances.

The erection of a tabernacle in the requested location would block the passage for those entering or exiting and greatly hamper the deployment of police forces in the area.

The location of the tabernacle in the vicinity of the Mugrahbi Gate, and near the holy sites of other religions, upsetting the delicate balance presently existing on Temple Mount and the roads leading to it, may cause serious disturbances both by those present on Temple Mount and by elements present in its vicinity.

It should be emphasized that the petitioners request to erect the tabernacle on the raised path that is situated above the Wailing Wall on its Southern side, and below Temple Mount.

The police possesses intelligence information regarding expected disturbances on Temple Mount resulting from the

Temple Mount Faithful's intention to carry out the traditional pilgrimage to the Mount during the intermediate days of the Tabernacles Festival and the additional intention of erecting a tabernacle on the narrow patn at the entrance to the Mugranbi Gate.

A tabernacle placed on such a sensitive spot is liable, according to respondant no. 1, to create an additional focus of rioting and spur further serious disturbances, including stone-throwing at the tabernacle from the direction of Temple Mount. Past experience has taught that throwing stones in the direction of the uplifted embankment may inadvertently hit worshippers at the Wailing Wall square.

In view of the disturbances which take place in the area daily, the cumulative intelligence information regarding the requested event and in light of past experience, there is real danger of disturbances in the pattern and on the scale of last year, and even worse.

The petitioners were presented with an assessment according to which adding the event of carrying the cornerstone, with the great symbolism attached to it, is liable to increase disturbances to an extent that would force the police to prevent the holding of the additional events planned by them.

5. Despite the grave incidents which have occurred recently and which reached their climax on Yom Kippur with the organized gathering of dozens of masked men who intended to go up toward Dung Gate and the Wailing wall carrying various destructive weapons, the police is not opposed at this stage to holding the events for which it had granted permission on September 12 1990, subject to its assessment of the circumstances prevailing in that area as the time of the event approaches.

Israeli police is responsible, among other things, for maintaining public order and the safety of life and property as stipulated by section 3 of the Police Order (new version) 1971.

It appears from the above that in view of the daily incidents in the area, in addition to existing intelligence

information, and past experience regarding events such as this, there is a near-definite probability to Israeli police assessment that the erection of a tabernacle in the vicinity of the Mugrahbi Gate, and carrying the cornerstone designated for the erection of the Third Temple on the requested route would cause disturbances of public order and harm public safety.

6. It is estimated that erecting the tabernacle on the entrance path to Temple Mount, in the vicinity of the Mugrahbi Gate, and carrying the cornerstone designated for the erection of the Third Temple on Temple Mount are more liable to inflame emotions in the area than other events planned by the petitioners.

As explained above, there was readiness to allow the petitioners to ascend the Temple Mount, as well as a tour and guidance for the Temple Mount Faithful during the intermediate days of the Tabernacles Festival (6.10.90), and praying in the vicinity of the Mugrahbi Gate on Yom Kippur. Regarding the procession - for which the petitioners have so far seen no need to seek permission - and holding a short ceremony at the Shiloah Fountain, no opposition has been raised, in principal, to these either, all subject to the circumstances prevailing in the area at the time of their occurrence.

Thus a proper balance has been struck between the right of procession or expression of opinion of the petitioners and the need to defend public safety and security at the requested time and place.

בצלם
מרכז המידע הישראלי לזכויות האדם בשטחים
'بتسلم' مركز المعلومات الاسرائيلي لحقوق الانسان في الأراضي المحتلة
B'TSELEM The Israeli Information Center for Human Rights in the Occupied Territories

APPENDIX B

List of people killed in the events on Temple Mount 8.10.90

	Name	Age	Residence
1.	Abd al-Karim Muhammad Za'atra	26	Jabel Mukabbar/J'lem
2.	Fayez Hussein Husni Abu Sneine	18	Al-Azariye/Bethlehem
3.	Nimer Ibrahim Nimer Dweik	24	Wadi Joz/J'lem
4.	Burhan al-Din Abd al-Rahman Kashur	19	Jerusalem/J'lem
5.	Ribhi Hasan al-Rajbi	55	Dahyat al-Barid/ Ramallah
6.	Ibrahim Muhammad Ali Frahat Adkidak	17	Sho'afat R.C./J'lem
7.	Maryam Hussein Zahran Mahtub	45	Qibya/Rammalah
8.	Majdi Abd Hamidan Taha Abu Sneine	18	Wadi Joz/J'lem
9.	Jadi Muhammad Rajeh Zahade	26	Al-Zayem/J'lem
10.	Majdi Nazmi Abu Sbeih	18	Al-Ram/Ramallah
11.	Muhammad Arif Yassin Abu Sneina	30	Silwan/Ramallah
12.	Mussa Abd al-Hadi Murshad al-Sweiti	26	Old City/J'lem
13.	Ibrahim Abd al-Gaffar Gurab	32	Wadi Joz/J'lem
14.	Ayman Muhi Ali al-Shami	18	Wadi Joz/J'lem
15.	Fauzi Sai'd al-Sheikh	63	Kharbata/Ramallah
16.	Izz Jihad Mahmud Hamid al-Yassini	15	Old City/J'lem
17.	Adnan Khalaf Jenadi	28	Tamra/Israel

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APPENDIX C

Affidavit

I the undersigned, M.T. (full details kept at B'Tselem's office), a resident of the Old City and employee of the Waqf, having been warned to tell the truth and that should I not do so, I shall be liable to the punishments stipulated in the law, hereby state the following:

On October 8th 1990, at about 10:55 in the morning, I was standing by the weights on the roof of the Dome of the Rock. I saw a teargas canister which fell on the Al-Kirk square Southeast of the Dome of the Rock where almost all of the schoolgirls had gathered. The canister fell after a yellow helicopter had flown above the place. The helicopter had flown low. The schoolgirls started screaming, the people who were present in the open spaces facing Al-Aqsa Mosque started running in the direction of the schoolgirls who were shouting.

At that moment teargas canisters began falling from the West on the open spaces facing Al-Aqsa Mosque and on the roof of the Dome of the Rock. Then I saw border police and soldiers fleeing from the Mugrahbi Gate.

At that moment the police ordered its men to shut the gates of Temple Mount, the gates were shut and not a single soldier or border policeman remained within Temple Mount except for the Arab policemen who are always present at the Temple Mount gates.

Although the gates were shut I heard shooting of live ammunition, I don't know where exactly the shooting came from but I wouldn't rule out the possibility that it came from the observation post on the Mahkama building, which is located South of the Chains Gate and North of the Mugrahbi Gate.

For about 20 minutes there were no soldiers or border police like I mentioned, and then the border police broke into Temple Mount through the Khuta and Mugrahbi Gates. When the soldiers broke into Temple Mount they entered shooting in mass. Before the entry of the soldiers a few had been wounded but there were no martyrs but when they broke in there immediately were about 4 dead by Khuta Gate and I know of an old man aged 62 who was killed by the

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Mugrahbi Gate.
The soldiers entered and spread all over Temple Mount. People stopped throwing stones and everyone tried to find a place to hide. People ran into Al-Aqsa Mosque and into the Dome of the Rock, and whoever couldn't escape into these places was either killed, wounded or arrested.
The stoning went on at first for about 15 minutes until the soldiers entered through the two gates.
I can't tell at what time the shooting stopped but I know it lasted steadily for about two hours.
During the shooting when we saw very many wounded we opened the Lions' Gate, and through it entered private cars in order to take the wounded to the hospital. When the cars came in the intensity of the shooting decreased, ambulances reached the place. The ambulance would stop right at the gates of Al-Aqsa Mosque or of the Dome of the Rock. The first ambulances took in the wounded but coming out of Lions' Gate the police transferred the wounded to police patrol cars and they were taken to custody. I got a few radio messages to that effect from the steward who is positioned at Lions' Gate.
The place where the wounded fell was near the Dome of the Rock, as well as opposite Al-Aqsa Mosque, about 50 meters from the Mugrahbi gate. To the best of my knowledge all those killed fell inside Temple Mount and I don't know of any who were shot outside the gates of Temple Mount
Each year when the Temple Mount Faithful announce their intention of entering in order to lay the cornerstone, people come from all over the country to defend their holy site.
Last year it was the same. That time the police used teargas only. This is the first time the police have used live ammunition.

I, advocate Yosef Arnon, hereby certify that on October 9th 1990 appeared before me Mr. M.T., who identified himself by identity card no. -------, and after I had warned him that he was obliged to tell the truth and that should he not do so, he would be liable to the punishments stipulated by the law, confirmed before me the accuracy of the aforementioned affidavit and signed it.

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APPENDIX D

Affidavit

I the undersigned, M.A.T. (full details kept at B'Tselem's office), ID no. --------, having been warned to tell the truth and that should I not do so, I shall be liable to the punishments stipulated in the law, hereby state the following:

1. On October 8th 1990 at 9:25 p.m. I received instructions through my beeper to proceed to the Al-Aqsa Mosque immediately. I promptly went there and saw some 200 male and 50 female worshippers around the Dome of the Rock Mosque.
2. There were about 25 border police present, who stood between the Dome of the Rock and the Wailing Wall. The situation was quiet.
3. Suddenly I heard the women shouting that the border police were breaking into the Mosque. About half a minute later I heard shots from where the policemen had broken in, as well as from the direction of the policemen who had been present earlier.
4. Immediately afterwards I saw youths throwing stones at the border policemen.
5. The Imam in the Mosque requested the border police through the loudspeaker to stop shooting and leave the area. He also requested male worshippers to go into Al-Aqsa Mosque and famale worshippers to go into the Dome of the Rock.
6. I saw soldiers go up to Temple Mount and shoot automatically. I was at the clinic on Temple Mount at the time and saw many of the wounded reach the place. The soldiers' shooting was at a straight angle and from a kneeling position, in the direction of the crowds.
7. There were about ten of us inside the clinic and the soldiers began shootig into the clinic. I hid away from the shooting.
8. I went out of the clinic and into a house to the West of the Mosque. I saw the shooting. During the shooting I saw a soldier shoot a boy in the head from a range of about 30 meters. Later I was informed that the boy had died of the injury.

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9. I do not speak Hebrew and this affidavit was translated for me word by word into English.
10. This is my name, this is my signature and the contents of my affidavit are true and accurate.

I, advocate Asaf Shaham, hereby certify that on October 9th 1990 appeared before me Mr. M.A.T., who identified himself by identity card no. -----, and after I had warned him that he was obliged to tell the truth and that should he not do so, he would be liable to the punishments stipulated by the law, confirmed before me the accuracy of the aforementioned affidavit and signed it.

APPENDIX E

Affidavit

I the undersigned, Bassem Eid, ID no. 8067393-2, having been warned to tell the truth and that should I not do so, I shall be liable to the punishments stipulated in the law, hereby state the following:

On October 10 1990 at 12:00 noon I was at Temple Mount in order to take testimonies on what had happened on Temple Mount on October 8th 1990. On the open space to the West of the Dome of the Rock I saw many stains of blood as well as trails of clotted blood indicating the areas where those who got wounded, or part of them, had been hit.

I also saw holes that looked like bullet holes in the windows and walls of the Dome of the Rock and photographed them.

The place is more than 200 meters away from the Mugrahbi Gate.

I, advocate Yosef Arnon, hereby certify that on October 10th 1990 appeared before me Mr. Bassem Eid, who identified himself by identity card no. 8067393-2, at B'Tselem's office on 18 Keren Hayesod, Jerusalem, and after I had warned him that he was obliged to tell the truth and that should he not do so, he would be liable to the punishments stipulated by the law, confirmed before me the accuracy of the aforementioned affidavit and signed it.

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APPENDIX F

Affidavit

I the undersigned, Fatimah Abd al-Salam Abu Hadir, ID no. 8040592, having been warned to tell the truth and that should I not do so, I shall be liable to the punishments stipulated in the law, hereby state the following:

1. I work as a first aid nurse in East Jerusalem.
2. On October 8th 1990 I was working with Dr. Tarek Abu al-Hawa. Dr. Tarek was given a radio message that there are injured people on Temple Mount. I went there in an ambulance which was driven by Dr. Tarek. With us was another person named Isa Abu Sbeitan.
3. Dr. Tarek parked the ambulance near the entrance to Temple Mount. I remained inside the ambulance and people began bringing the wounded into the ambulance. I was treating them inside the ambulance. Suddenly I felt, while I was inside the ambulance treating the wounded, pain in my right hand. I saw that a bullet had hit my right hand and two other bullets hit the upper part of my chest.

   It it important to note that the bullet which hit my right hand crushed it completely.
4. It is important to note that we had entered the Temple Mount and reached the entrance to Al-Aqsa by ambulance.
5. It is important to note that I did not get off the ambulance throughout the incident and was treating injured people who were brought into the ambulance, and that I was hit by three bullets which had penetrated the ambulance.
6. After I had been wounded teargas canisters were thrown at the ambulance and we were almost suffocated.
7. Dr. Tarek, who had gone out of the ambulance in order to bring in seriously wounded people, was shot in the leg and was late in returning to the ambulance. The key was inside the ambulance and another male-nurse drove us to Al-Maqassed hospital. During the Journey shots were fired at the ambulance and as a result its front windscreen was smashed.

8. This is my name, this is my signature and the contents of my affidavit are true and accurate, having been translated for me into Arabic.

I, advocate U. Sa'di, hereby certify that on October 9th 1990 appeared before me at Al-Maqassed hospital, Fatimah Abu hadir who identified herself by identity card no. 8040592, and after I had warned her that she was obliged to tell the truth and that should she not do so, she would be liable to the punishments stipulated by the law, confirmed before me the accuracy of the aforementioned affidavit and signed it.

APPENDIX G

Testimony of Dr. Habas Wahdi, a doctor at Al-Maqassed hospital, taken by Daphna Golan on October 9th 1990 at the hospital:

I was in the first ambulance to reach Temple Mount (at about 10:50). When we reached the square outside the Mosque, there were about 15 wounded and 3 dead. Whoever could flee did so. Many people hid inside the Mosque whose gates had been shut. When we came we saw soldiers kick
the wounded and the dead and beat them with clubs. There was ceaseless shooting in all directions. The shooting did not stop while we were evacuating the wounded. Our ambulance's loudspeaker and windscreen were damaged by bullets. Evacuating the wounded was extremely frightening, with the shooting never stopping. The soldiers were very close, at times less than 10 meters away. They deliberately shot at the ambulances, although there couldn't have been any mistake about the fact that we were evacuating the injured. I went backwards and forwards between the hospital and Temple Mount several times. Each time they shot at the ambulances. I stayed there to help with the evacuation until 15:00.
For a long time I stayed inside the Mosque to assort the wounded according to their condition and the urgency of their evacuation. Inside the Mosque there was a strong smell of teargas and although

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I was wearing a mask it was hard to breath. The other doctor asked me to evacuate only those seriously wounded, and I heard later that the slightly injured were not allowed to be evacuated and that the soldiers were checking those who were.

APPENDIX H

Testimony of Muhammad Abu Riali, 23 years old, who works as a nurse at the clinic adjacent to the Al-Aqsa Mosque, taken by Daphna Golan on October 9th 1990 at Al-Maqassed hospital:

I had been at Al-Aqsa Mosque since morning. I was asked to treat two of the injured. I ran along the Eastern side of the Mosque, far from the people, with an infusion kit and other first aid gear, and was shot. I was hit in the right side of my chest by a live bullet. Shots were fired in all directions. I think I was shot from above, from a distance of about 100 meters. I saw that people who were escaping were shot, everyone was. They shot indiscriminately.

APPENDIX I

Affidavit

I the undersigned, DR. Mana Abu Shaqra, ID no. 81079618, having been warned to tell the truth and that should I not do so, I shall be liable to the punishments stipulated in the law, hereby state the following:

1. I serve as head of the maternity ward at Al-Maqassed hospital.
2. On October 8th 1990 I was in the ward. At around 12:00 noon a few teargas canisters were thrown at the hospital and especially at the maternity ward. One canister caused the breaking of three windows in the delivery room and penetrated a room in which there were five women. Other canisters were thrown at the corridors in the maternity ward and broke a glass window.
3. As a result of the throwing of the teargas canisters, the maternity ward was covered with teargas and we had to evacuate a large part of the ward.
4. It is important to note that even today, October 9th 1990, one can still smell the teargas where the canisters were thrown.
5. This is my name, this is my signature and the contents of my affidavit are true and accurate, having been translated for me into Arabic.

I, advocate U. Sa'di, hereby certify that on October 9th 1990 appeared before me at Al-Maqassed hospital, Mr. Mana Abu Shaqra who identified himself by identity card no. 81079618, and after I had warned him that he was obliged to tell the truth and that should he not do so, he would be liable to the punishments stipulated by the law, confirmed before me the accuracy of the aforementioned affidavit and signed it.

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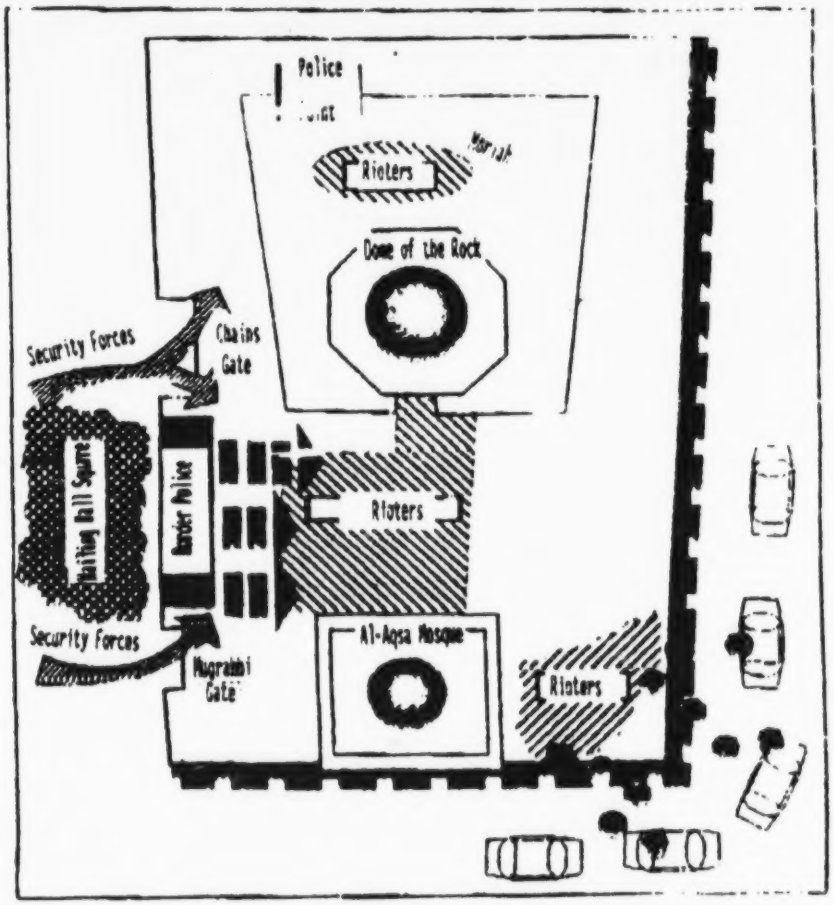
APPENDIX J

Map of Temple Mount (Al-Haram al-Sharif)



(source: Yediot Ahronot, 9.10.90)

The area defined as "Temple Mount" ("Har ha-Bayit" or "Al-Haram al-Sharif") is over an area of about 140 dunums, surrounded by walls. To the North of the compound lies the Old City of Jerusalem, South of it the City of David excavations, to the East - Ha-Ofel Road and to the West - the Wailing Wall.

Within the compound surrounded by walls there are two large Mosques - Al-Aqsa and the Dome of the Rock. Also within the compound are about 14 other buildings which house various Islamic religious and educational institutions. South of Chains Gate is the Mahkama Building, a tall building on whose roof a Border Police observation point was situated during the event.

Ten gates lead into the compound from the North and West. Four additional gates, from the South and East, are sealed.

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S/21919/Add.2
1 November 1990

ORIGINAL: ENGLISH

REPORT SUBMITTED TO THE SECURITY COUNCIL BY THE SECRETARY-GENERAL
IN ACCORDANCE WITH RESOLUTION 672 (1990)

Addendum

The present addendum contains the report received from Al-Haq referred to in paragraph 8 of the Secretary-General's report.

AL_HAQ القانون من أجل الانسان

31 Main St., P.O.Box 1413, Ramallah, West Bank, Tel: 02-956421 ٣١ الشارع الرئيسي ، رام الله ، الضفة الغربية ، تلفون: ٩٥٦٤٢١-٠٢

28 October 1990

RECONSTRUCTION OF EVENTS (REVISED)
AL-HARAM AL-SHARIF, JERUSALEM
MONDAY, 8 OCTOBER 1990

Introductory Comments

On Friday, 12 October 1990, al-Haq issued a reconstruction of the events which occurred on 8 October at al-Haram al-Sharif (hereafter al-Haram), Jerusalem. Since then, al-Haq has collected more information concerning the circumstances and events of that day. Presented below is a revised version of the original reconstruction; there are few amendments as the information collected by al-Haq since issuing the first report has confirmed and supported the original findings.

This chronology of the events of 8 October at al-Haram, is based on over 50 thorough interviews conducted between 8 and 11 October 1990, by a team of 13 al-Haq staff members; since 12 October, al-Haq fieldworkers have conducted further interviews. In addition, many of the facts presented below were also corroborated by reports from other witnesses.

The information presented is as exact a reconstruction of the events as al-Haq has been able to achieve. Every effort has been made to obtain reliable and corroborated evidence; in several instances, al-Haq has excluded details that it was not able to confirm or corroborate to its satisfaction.

Those interviewed included women and men worshipers, some of whom were later arrested; officials of al-Awqaf (Muslim Religious Trust); and non-worshipers who were present in al-Haram including journalists, residents situated within the precincts of al-Haram, residents of the area adjoining al-Haram, doctors and nurses who came to the scene, ambulance drivers, al-Haram guards, and wounded men, women, and children. Al-Haq staff also saw several video recordings of the events.

These interviews were conducted at the site of the incident; in houses adjacent to the site; Maqassed Hospital, Augusta Victoria Hospital, St. Joseph's Hospital, and the offices of al-Awqaf.

The area in question, which is almost 141 dunums in size (one dunum = one thousand square metres), is known as al-Haram. Al-Haram is a Moslem holy place which includes al-Aqsa Mosque (where men usually pray), and the Dome of the Rock (where women usually pray). In addition, there is a museum, schools, a clinic, a police station, a library with archives, offices, and areas cultivated with pine and olive trees. (SEE MAP 1). Al-Haram has, since 1967, been under the spiritual supervision of the al-Awqaf, although ultimate responsibility for security has been in the hands of Israeli police. In addition to having a police station within the grounds of al-Haram, the police have acquired, since 1967, possession of strategic

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sites on the west side between al-Haram and the Western (Wailing) Wall. These include the building know as the "mahkama" (the "Court"), and the rooftops overlooking both al-Haram grounds and the Western Wall plaza. (SEE MAPS 2 & 3). The entire area is walled. It is accessible through eight doors that are normally open. The Israeli police have effective control of all the gates, the keys of which (with the exception of al-Magharbeh - ["Morocco"] - Gate) are with al-Awqaf.

Usually there is one Palestinian guard from al-Awqaf and two Israeli policemen guarding each gate. Israeli Border Guards (a special army unit attached to the police force and under the command of the Ministry of Police) are stationed in the "mahkameh", which is between al-Silsileh (Chain Gate) and al-Magharbeh Gates. (SEE MAP 1). Border Guards enter al-Haram area at will and routinely patrol inside al-Haram, usually in groups of three (however, this number is augmented when the situation requires), without requiring permission to do so by al-Awqaf.

Normally, al-Haram is open to tourists and non-worshipers. Palestinians entering through the Old City gates may have their identity cards checked by Border Guards, especially on Fridays and other days when large crowds are expected.

The Western Wall, a Jewish holy site, lies between al-Magharbeh and al-Silsileh Gates. Above the Western Wall, and overlooking al-Haram, is a wall some ten metres high and several metres wide, on which Border Guards can, and sometimes do, patrol. (SEE MAP 3).

Vehicle access all the way to the front yard of al-Aqsa from al-Asbat Gate (Lion's Gate), in the north-eastern part of al-Haram, is possible.

Background to the Events of 8 October, 1990

The "Temple Mount Faithful," a group of Jewish extremists, was established in 1967. Their primary objective is to build a Third Temple on the site of al-Haram. The group has been permitted to enter the area of al-Haram in the past for special religious holidays. On previous occasions, after agreemet with the police, the Temple Mount Faithful had been allowed to enter al-Haram between the hours of 8:00 a.m. and 3:00 p.m., in groups of two, three or four, accompanied by Israeli police. This year they sought permission to lay a cornerstone of the Third Temple and set up a Succa (tabernacle), on 8 October 1990, in al-Haram. The Israeli police refused this request, but gave the Temple Mount Faithful permission to enter between the hours of 8:00 and 11:00 a.m. The Temple Mount Faithful appealed to the High Court of Justice seeking a reversal of this decision. They subsequently dropped their appeal, but publicly announced that they intended to enter al-Haram on 8 October in any case. The belief prevailed amongst the crowd gathered at al-Haram that the Temple Mount Faithful would try to enter al-Haram accompanied by Border Guards.

Calls from mosques in Friday sermons, and in schools, were made for Moslems to come to al-Haram on 8 October to defend it and to prevent it from being taken over by the Temple Mount Faithful. Many people heeded the call.

Monday, 8 October 1990: Dawn - 8 a.m.

There were no checkpoints on the Ramallah-Jerusalem road until after 8 a.m. There were no checkpoints on the road from Bethlehem.

By 5 a.m., there were already approximately 500 people in al-Haram. Half an hour later, at the time of the early-morning prayer, there were approximately 1000 worshipers in al-Haram.

At around 7:30 a.m., a Border Guard patrol, comprising some 15 men, entered al-Haram through al-Magharbeh Gate and inspected the area around the Gate and the main stations there. This patrol remained stationed in the area of al-Magharbeh Gate.

From around 8.00 a.m., non-Palestinians, particularly tourists, were prevented from entering al-Haram by Border Guards and police guarding the entrances.

8.00 a.m. - 10.00 a.m.

More worshipers arrived at al-Haram during this time. They were allowed to enter without being searched.

Sheikhs, who were giving talks to groups assembled throughout al-Haram, repeatedly stressed the importance of restraint and affirmed the duty of Moslems to protect the holy places. They were also walking among the people urging calm.

Al-Awqaf officials, concerned at the possibility of confrontation at a time when tension was high due to the swelling crowds and what they felt to be the provocative posture of armed Border Guards in al-Magharbeh Gate area, attempted to reduce the tension and ensure discipline and calm by instituting a number of measures. These measures included:

1) ushering all the women to the area around the Dome of the Rock, and all the men to the front yard of al-Aqsa Mosque (SEE MAP 1);

2) recruiting young men to form a human chain to prevent any confrontation from developing in the area of al-Magharbeh Gate (SEE MAP 1);

3) meeting at various times with Israeli Security Officers, including a Yemenite officer of the Border Guards, Shlomo Qatavi ("Abu Taj"), in order to try to ensure that the behavior of the Border Guards present did not provoke the crowd. Shlomo Qatavi responded on different occasions:

-"*Today we are not playing, not joking*";[A]

-"*If stones are thrown today, we will soak the place in blood.*"[B]

The last sermon was given by Sheikh Hamed al-Beitawi at approximately 10:00 a.m. After this sermon, a 12-year-old boy recited a poem for about five minutes. At this time, witnesses estimate that between 3,000-5,000 people were present. This number of worshipers generally gather for Friday prayers at al-Haram; thus the size

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A. Al-Haq interview with al-Awqaf officials, 10 October 1990.

B. Ibid.

of the crowd alone was not remarkable. However, the high level of tension among worshipers was unusual as they anticipated a confrontation with members of the Temple Mount Faithful, against whom they had come to protect the Moslem holy shrine. This belief prevailed despite official restrictions on the Temple Mount Faithful.

10.00 - 10:50 a.m.

The crowd was not aware that the Temple Mount Faithful had attempted to enter and been diverted away to Silwan "Pool of Shiloah," nor did the police attempt to communicate this information to the crowd or al-Awqaf officials. The crowd remained in a state of acute anticipation. Tension was rising with every minute. However, according to witnesses interviewed, no violent incidents were reported before 10:30 a.m.

Between 10:30 and 10:50 a.m. (most probably at 10:45 a.m.), the women who were around the Dome of the Rock were tear-gassed. Al-Haq interviewed many women and men regarding the precise chronology of events and got different versions as to where exactly the tear gas came from and what preceded its shooting. However, the fact that a tear gas canister was shot or thrown into the crowd, and exploded, is established beyond doubt. Thus, whoever was responsible for this action completely failed to take into consideration the prevailing tension of the crowd or the impact which this act would have, under the circumstances. Moreover, the Israeli authorities made no attempt to cool tempers and prevent the violence that ensued. It has been established that this marked the beginning of the ensuing events.

The men at al-Aqsa front yard reported hearing shouts of *"The army has come, Allahu Akbar,"* coming from the group of women. Some of the men ran to the north, towards the women, but a large number moved to the west towards al-Magharbeh Gate, where an estimated 15-20 Border Guards were stationed. The Border Guards began shooting at the approaching crowd, some of whom were throwing stones towards the Border Guards. The Border Guards did not issue verbal warnings or fire warning shots in the air, or use any other means of crowd control to avoid inflicting severe injuries. Instead, they fired at the crowds, wounding at least twenty people. Thus far, it has not been established what type of ammunition caused these injuries.

Despite the number of injured, the crowd proceeded forward and the Border Guards eventually retreated behind al-Magharbeh Gate.

As the firing continued, al-Awqaf sheikhs could be heard shouting over a megaphone to the crowd:

> Move inside the mosques. Al-Haram is a place for worship not for fighting. There are dead and wounded. Call the police to speak to us because a massacre is taking place in al-Aqsa Mosque. Do not stand before the soldiers. Do not confront the soldiers. Do not make your bodies subject to death in order to preserve your lives and the Holy Aqsa. Stay away from the walls of al-Aqsa and al-Mahkameh area and the Western Wall where the soldiers are stationed. All men should proceed to the

Aqsa. All women should proceed to the Dome of the Rock.[A]

He also addressed the Border Guards, saying:

"It is enough. Enough shooting. Stop the shooting."[B]

10:50 - 11:20 a.m.

The young men ran to al-Magharbeh Gate and closed it. At this point, the crowds were shot at from the windows of the building known as the "mahkameh." Guns protruded through holes cut out of the wire grill covering those windows. The crowd threw stones in the direction of soldiers stationed at the "mahkameh" who were shooting down at them. Some of these stones fell onto the Western Wall plaza, located on the other side of the dividing wall (SEE MAP 2). At the same time, the Border Guards who were behind al-Magharbeh Gate were firing tear gas in large quantities. They were also firing through a hole already existing in the gate. The crowds pelted them with stones, some of which fell on the Western Wall plaza. It is evident that many of the wounded and killed were hit during the ensuing 20 minutes; i.e., from approximately 11:00 - 11:20 a.m (SEE MAP 2). At least one of the Border Guards shooting into al-Haram area had set his gun at automatic.

It is important to note that separating the crowd at al-Haram from worshipers at the Western Wall is an arcade.[C] This structure is at least six metres wide and 12 metres high.

It is also important to note that there is a local police post, consisting of two rooms, located some 200 metres to the north-west of the Dome of the Rock. It forms part of a low-roofed series of rooms in which two Arab policemen are permanently stationed. Despite police knowledge of the probability of tension on 8 October, no attempt was made either to remove the two policemen or to give them any other support. They remained there throughout the better part of the morning. During this period of time, the two local Palestinian policemen were evcited by the crowds who then set on fire the furniture inside these rooms.

The first ambulance arrived at around 11:00 a.m. It drove through al-Asbat Gate and stopped at the front yard of al-Aqsa. The doctor, wearing a white medical coat, got out of the ambulance to give first-aid to an injured person and was immediately shot in the leg. The Border Guards opened fire at the ambulance, which was clearly marked, causing damage to the ambulance. At the same time, a nurse, Fatima Abd el-Salam Abu Khdeir, 35, was severely injured. Another nurse was arrested.

A. This announcement was recorded on tape at the time it was made. Al-Haq excerpted this quote from the simultaneous recording, which is available at al-Haq.

B. Ibid.

C. This arcade consists of an arched wall connects to the "Mahkameh" building.

Muhammad Hasan Abu Rayyala, 25, a nurse from Maqassed Hospital, was shot while trying to help an injured person and was prevented from providing urgently needed medical treatment. The individual he was trying to help later died.

11:20 - 11: 30 a.m.

At around 11:20 a.m., al-Magharbeh Gate was stormed by between 40 - 50 reinforcements who came in and pursued the crowd towards al-Aqsa and the surrounding areas, shooting heavily for the next 15 minutes. Many young men were now attending the wounded. They tried to drag the wounded and the dead to the clinic, which is situated in the north of the compound, as well as to the two main mosques: al-Aqsa and the Dome of the Rock. Many of those involved in evacuating the wounded have reported orders by the Border Guards to drop the wounded; others were also shot at while trying to save the wounded. There were also reports of soldiers beating the wounded. Many men and women were seeking shelter in the mosques while others were trying to escape by going to the east where the olive groves are. At this time, more contingents of Border Guards had driven through al-Asbat Gate in two jeeps which parked in the southern section of al-Haram. They shot and killed at least two in that region (SEE MAP). Those who were trying to escape through the gates of al-Haram were prevented from doing so. At this point, the ICRC and UNRWA delegates were present.

At around 11:30 a.m., a yellow helicopter was seen flying above al-Haram. At this time, both al-Aqsa Mosque and the Dome of the Rock were crowded with dead and wounded as well as people escaping from the shooting and tear gas. Negotiations were conducted between the Border Guards and al-Awqaf officials, ICRC delegates, and UNRWA officials regarding evacuation of the crowds from al-Aqsa Mosque and the Dome of the Rock. Soldiers were pursuing young men who were trying to escape. Those who were outside these mosques were attempting to leave to escape arrest and the Border Guards were pursuing them. Many incidents of severe beatings were reported. There were also incidents of shooting as well as large number of arrests. Witnesses estimated the number of soldiers present at this point to be no less than 100.

11:30 - 12:30 p.m.

Exit was restricted as soldiers at the gates were arresting those trying to leave al-Haram. Some managed to leave. There is evidence that people from outside were trying to get in from at least one gate. Soldiers tried to prevent them, but failed. Evacuation of the wounded continued with disruptions. Sporadic shooting continued in surrounding areas, but no deaths were reported. The witnesses reported that severe beatings and large scale arrests were continuing. The police and Border Guards had assumed full control of the situation.

The Final Count

The number of dead was 17, one of whom was a woman. Over 150 were injured, amongst whom 5-7 are in serious but stable condition. 150 were arrested from inside al-Haram, and another 120 from outside. Everyone was evacuated from al-Haram by 5:00 p.m.

SUMMARY OF FINDINGS

1. During the week preceding 8 October, the group called "The Temple Mount Faithful" announced their intention to enter al-Haram al-Sharif on 8 October, and publicly invited Jews to accompany them. Public calls were issued by muezzins during Friday prayers on 5 October for Moslems to gather on 8 October, in order to defend al-Haram.

2. On 8 October, tensions were high at al-Haram, where 3,000 to 5,000 Moslem worshipers were gathered. There were no calls for the stoning of Jews praying at the Western Wall, and those worshiping there were not deliberately attacked. On the contrary, al-Awqaf officials specifically and repeatedly called on worshipers to remain calm and act with restraint. Stones were thrown, directed at Border Guards standing on top of the roof of the structure separating the Moslem area from the Western Wall. Some of these stones fell on the area of the Western Wall.

3. The incident began when tear-gas canisters exploded in the midst of the crowd gathered at al-Haram. This was followed by stone-throwing by the crowd gathered there, and by shooting by the police and Border Guards present.

4. Contrary to official open-fire regulations, the Border Guards issued no verbal warnings to the crowd at al-Haram, and failed to fire warning shots into the air.

5. Once Border Guards started firing, they did so without restraint and, at times, used automatic gun-fire. Several of the wounded were shot more than once.

6. Efforts to save lives and aid the wounded were seriously obstructed. Ambulances, medical personnel, and other individuals were shot at. Several were injured in the act of attempting to aid the injured.

7. No attempt was made by law enforcement personnel to coordinate with the al-Awqaf officials present in order to avoid confrontation, restore calm, and diffuse the situation. In fact, attempts by the al-Awqaf officials to find ways of reducing tension were rebuffed by Captain Shlomo Qatavi and others in command of the Border Guards and police on the scene.

8. Water cannons and plastic riot shields, which have been used by the Jerusalem police for crowd-control purposes in the past, were not made available to the law enforcement personnel present during the events of Monday, 8 October.

9. The Border Guards and police were not, at any time, in a life-endangering situation requiring a lethal response. They were thus wholly unjustified in resorting to the use of excessive and lethal force. Furthermore, it is inconceivable that the use of such force for at least two hours could have been justified.

10. International observers, such as the International Committee of the Red Cross, had no effective role in restraining the actions of the Border Guards and police.

11. Seventeen persons were killed and over 150 were injured in the incident. Only around 20 of the injured were hurt during the first period before the Border Police retreated through Magharbeh Gate.

CONCLUSIONS

1. The number and severity of the casualties inflicted on unarmed civilians must provoke widespread concern at the extensive use of unjustified lethal force. The Israeli police authorities had advance information of possibility of an outbreak of disturbances. Nonetheless, no attempt was made to use readily available, non-lethal, and effective means of crowd-control when Border Guards and police officers intervened.

1.1 The chronology assembled by al-Haq indicates that the tactical deployment and conduct of key Border Guard forces, both before and during the massacre, were substantially of an offensive nature, thus raising serious questions regarding the actual intentions and objectives of those in command of the forces.

1.2 Prima facie evidence indicates that the following grave breaches of the Fourth Geneva Convention were committed by individual Border Guards and others on 8 October 1990 at al-Haram al-Sharif:

*willful killing (i.e., killing, with intention to kill, in the absence of a legal defense such as self-defense).
*willfully causing great suffering or serious injury to body or health

To date, there is no indication that the Government of Israel intends to deter the commission of further grave breaches through the prosecution and sentencing of the individuals responsible.

1.3 Over the course of the three-year-long Palestinian uprising, the Israeli authorities have consistently failed to adopt conventional means of non-lethal crowd-control. This fact indicates, at the very least, a lack of concern to minimize casualties inflicted on civilians by Israel's occupying forces, which in turn represents a serious violation of Israel's fundamental obligations as an occupying power.

2. The background to the massacre, and the manner in which it occurred, exemplify a pattern of causation which has been common to a number of serious incidents, documented by al-Haq, of unlawful violence against Palestinian civilians, in the recent past. This pattern includes:

* The persistent failure to ensure that orders issued at the senior, middle or local command level conform to the minimum requirements of international humanitarian law, specifically the Fourth Geneva Convention and the Hague Regulations Addendum to the Fourth Hague Convention of 1907. The actions of Israeli Border Guards and police on 8 October, most notably opening fire on civilians from point-blank range without justification, shooting at ambulances and medical personnel, and inflicting numerous beatings, are direct consequences of this failure.

* The widespread arming of Israeli civilians and the failure to restrain their illegal acts of violence. Al-Haq has documented several crimes committed by settlers during the events last Monday, including throwing rocks covered in burning glue into houses and shooting at Palestinian passers-by. Complaints to the police by residents were ignored. Similar incidents of settler violence have been fully documented in the past, as has the continuing failure of the authorities to stop such incidents.

* The public advocacy by members of the Israeli Government of spe-

cific illegal programs and policies which would subject Palestinian residents and institutions in the Occupied Territories to: (a) further acts of expropriation, (b) changes in their legal and demographic status, and (c) further expansion of the scope of state-sanctioned coercion, undeterred by local or international bodies. This is of particular concern in occupied East Jerusalem, where such advocacy has been translated into policies and actions prejudicial to the future status of the city, and contrary to the wishes of the occupied population. Such actions blatantly violate international law and continue despite worldwide opposition and condemnation.

* The tolerance of, and failure to restrain or officially denounce, public incitement to illegal actions by such groups as "The Temple Mount Faithful" who continue to call for laying the Foundation Stone of the Third Temple.

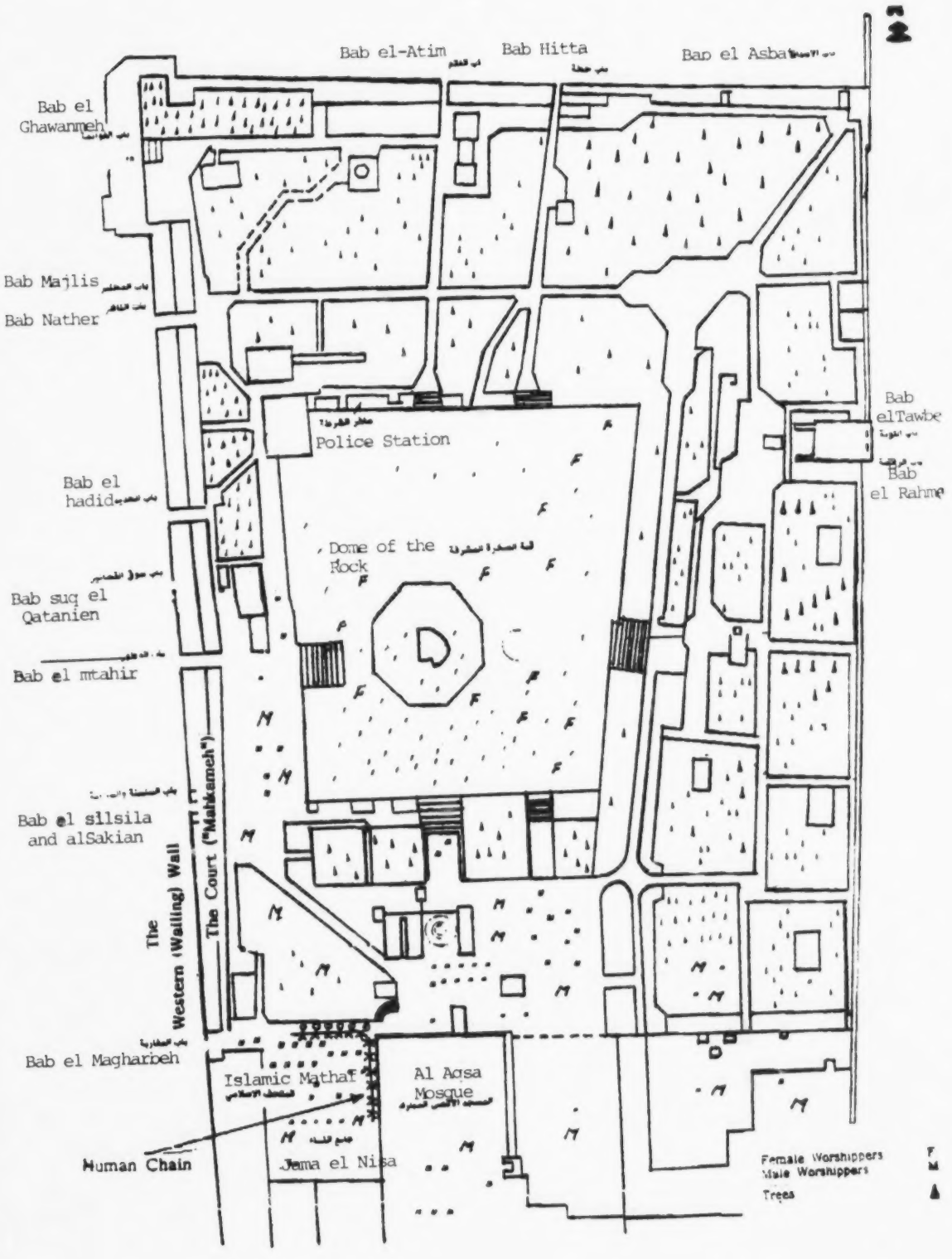
* Lastly, Israel's refusal to apply the Fourth Geneva Convention as a matter of law in the Occupied Territories. This has deprived Palestinians of recourse to enforceable local mechanisms of protection provided for in the Convention, and frustrated the appointment of a Protecting Power.

3. Al-Haq notes the inability of humanitarian agencies and consular officials to protect the population from such violations. During part of the massacre, representatives of the ICRC and UNRWA were on the scene; moreover, the events continued for about two hours within hearing of resident consular officials. There was no effective intervention, and the role of such groups is reduced to documentation after the fact.

4. By rejecting the international community's jurisdiction over its actions in Occupied East Jerusalem, the Government of Israel has unilaterally and illegitimately denied the Palestinian residents of East Jerusalem the status of protected persons under the Fourth Geneva Convention and excluded them from the protection of customary international law.

5. Al-Haq has regularly expressed concerns that continued failure by the international community to compel Israel to abide by international law undermines the safety and security of Palestinians in the Occupied Territories. This year alone, there have been several clear instances of the excessive use of force: on 26 April, for example, three Palestinians were killed and 184 Palestinians injured in Jabaliya Refugee Camp in Gaza; in the week following the killing of seven Palestinian workmen by an Israeli gunman at Rishon Letzion on 20 May, a further 15 were killed by soldiers and settlers and approximately 2000 injured. Following each of these incidents, al-Haq has pointed out to the international community the danger of giving the Israeli government carte blanche to proceed unchecked. On 7 June 1990, al-Haq issued a comprehensive appeal to all States Signatory to the Fourth Geneva Convention outlining specific measures of protection and reminding states of their obligation and the scope of their mandate to intervene to implement such measures jointly or severally.

6. In light of Israel's refusal to abide by its fundamental obligations as a belligerent occupant, and the deterioration of respect for humanitarian law which this has occasioned throughout the region, al-Haq repeats its urgent call to: (a) the Member States of the United Nations, (b) the Secretariat-General and (c) the Permanent Members of the Security Council to take effective measures to provide immediate international protection for Palestinian civilians living under Israeli military occupation.


Bab el-Atim
Bab Hitta
Bab el Asbat
Bab el Ghawanmeh
Bab Majlis
Bab Nather
Police Station
Bab el hadid
Dome of the Rock
Bab elTawbe
Bab el Rahme
Bab suq el Qatanien
Bab el mtahir
Bab el silsila and alSakian
The Western (Wailing) Wall
The Court ("Mahkameh")
Bab el Magharibeh
Islamic Mathaf
Al Aqsa Mosque
Human Chain
Jama el Nisa
Female Worshippers
Male Worshippers
Trees
F
M

Al_HAQ القانون من أجل الانسان
31 Main St., P.O.Box 1413, Ramallah, West Bank, Tel: 02-956421 ٢١ الشارع الرئيسي ، ص.ب ١٤١٣ ، رام الله ، الضفة الغربية ، تلفون: ٢٠-٩٥٦٤٢١

Attached to MAP 1

Al-Aqsa Holy Mosque

Definition: Al-Aqsa Holy Mosque is the area surrounded by the Haram Wall. This area is about 140 Dunums and 900 square metres. It includes the sealed section which is:

The Aqsa Mosque
The Dome of the Rock
The attached buildings

The Haram has ten main gates in both the northern and western directions that are:

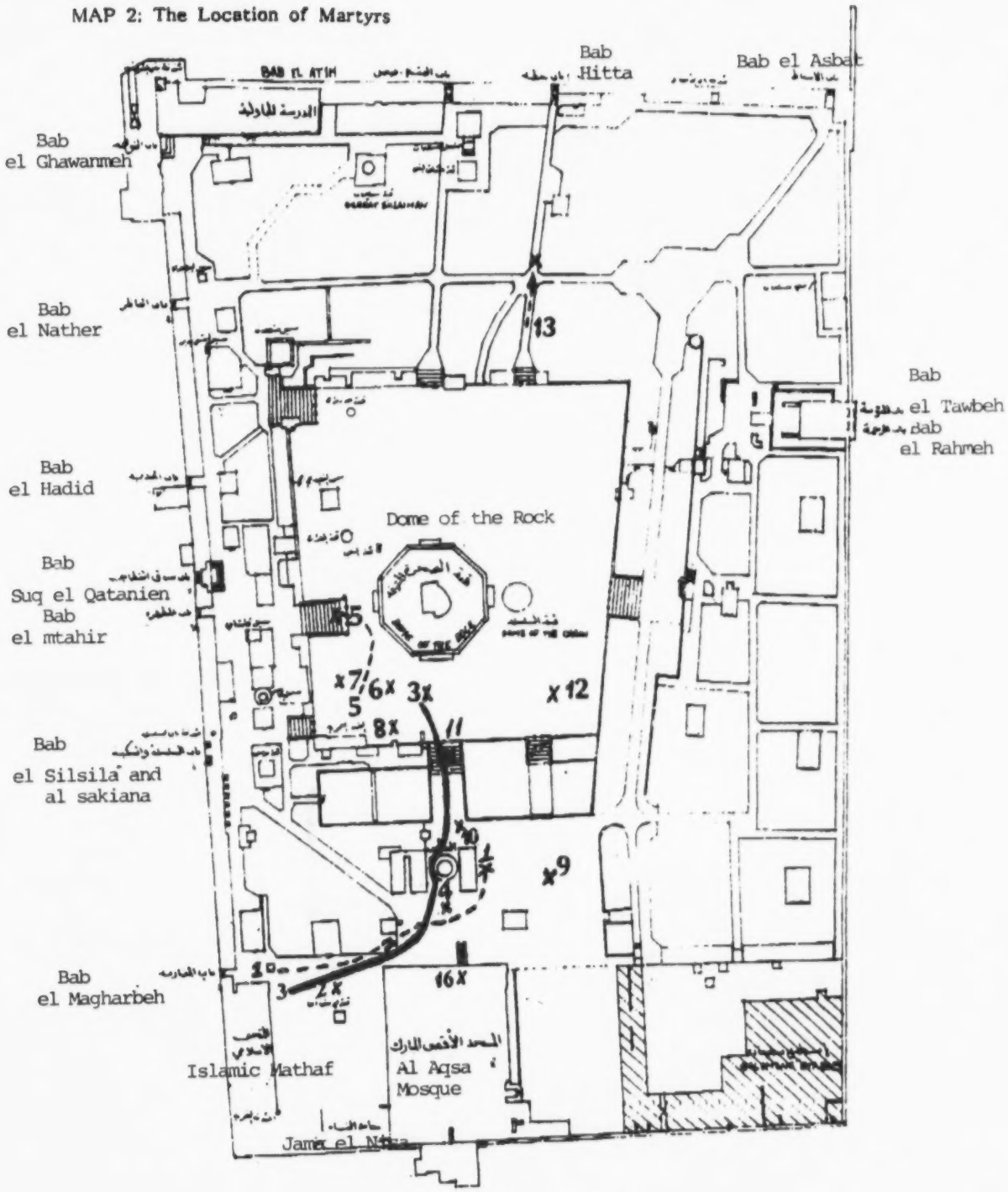
Bab Al-Asbate (Lion's Gate)
Bab Hutta
Bab Faisal
Bab Al-Ghawanma
Bab Al-Majles
Bab Al-Hadid
Bab Al-Qattanin
Bab Al-Mutawadda'
Bab Al-Silsila
Bab Al-Magharba

There are four other gates in both the southern and eastern directions that are closed.

The attached buildings are:

Al-Aqsa reconstructing offices
The Islamic Museum
The Holy Koran House
The Islamic Secondary Girls' School
The Al-Aqsa Mosque Library
The Islamic Archeological Department
The offices of the Al-Waqf Administration
The Meeting Hall
The Haram Al-Sharif School
The Islamic Cultural Department
The Al-Aqsa Secondary School
The Imams' Section
The Local Guards' Section
The Police Section

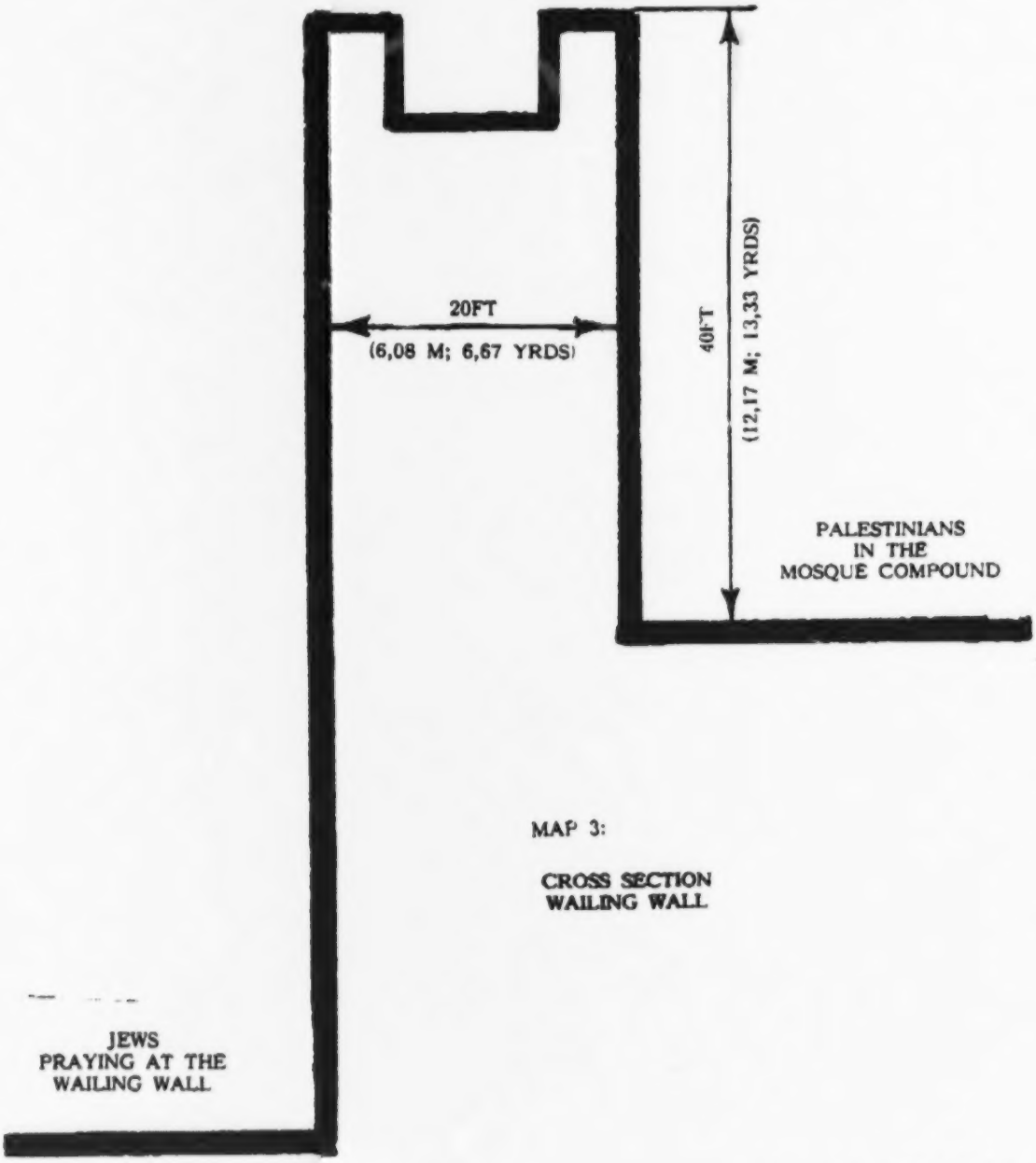
MAP 2: The Location of Martyrs



مخطط الحـــرم القدسي الشريف

/...

Al-HAQ
القانون من أجل الانسان



MAP 3:

CROSS SECTION
WAILING WALL

NOTE: OUT OF SCALE

UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/21919/Add.3
1 November 1990

ORIGINAL: ENGLISH

REPORT SUBMITTED TO THE SECURITY COUNCIL BY THE SECRETARY-GENERAL
IN ACCORDANCE WITH RESOLUTION 672 (1990)

Addendum

The present addendum contains the summary of the report of the Commission of Investigation received from the Permanent Representative of Israel to the United Nations referred to in paragraph 7 of the Secretary-General's report.

חמשלחת חקבועה
של ישראל לאומות חמאוחדוי
PERMANENT MISSION OF ISRAEL
TO THE UNITED NATIONS

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SUMMARY OF THE REPORT OF THE COMMISSION OF INVESTIGATION

INTO EVENTS ON THE TEMPLE MOUNT - OCTOBER 8, 1990.

THE FOLLOWING IS A PROOFREAD VERSION OF THE INITIAL SUMMARY RELEASED BY THE GOVERNMENT PRESS OFFICE ON FRIDAY, 26 OCTOBER 1990. IT HAS BEEN PREPARED AND TRANSLATED FOR THE CONVENIENCE OF FOREIGN JOURNALISTS. THE ONLY OFFICIAL AND BINDING VERSION IS THE FULL HEBREW REPORT OF THE COMMISSION. THIS SUMMARY IS INTENDED AS AN AID.

CHAPTER 1: INTRODUCTION.

1. The Commission expresses its deep sorrow over the loss of life on the Temple Mount, and conveys its sorrow to the families that lost loved ones. The Commission also expresses its sorrow over the injuries caused to civilians and police at the Western Wall Plaza and its vicinity and wishes a full recovery to the injured.

2. The Commission recommends that its conclusions be revealed in their entirety to the public and, therefore, has omitted from the report the evidence and the sources of its decisions and conclusions.

3. Despite its being a "commission of investigation" and not a "commission of inquiry," the Commission was authorized by the minister of justice to "receive statements in writing and to warn the witnesses to tell the truth. . ." The Commission also operated according to section 14 of the Inquiry Commission Law of 5729 [1968] and has decided that all testimony and material received will not serve as evidence in a legal proceeding, except for a criminal trial.

4. The Commission heard 124 witnesses, among them: the minister of police, the mayor of Jerusalem, the police commissioner, the head of the GSS, police and Border Patrol commanders, and also police officers and Border Patrol police. The Commission also heard a number of detainees, among them Faisal Husseini and Shiekh Muhammad Said Al-Jamal Al-Rifa'i.

5. The Commission visited Mukased Hospital and heard reports from doctors and the wounded, and also visited the Temple Mount and its vicinity a number of times.

6. The Commission was not requested to draw personal conclusions in the realm of civil, criminal or disciplinary responsibility of any of those involved in the events -- and it is the opinion of the Commission that it has no authority to do so in accordance with the law. The objective of the Commission was to examine that which was demanded of it in its letter of appointment -- it is not the purview of the Commission of Investigation to deal with or to recommend the drawing of personal conclusions by any one of those involved in the events. The conclusions of the Commission do not make reference to the actions or the malfeasance of a given individual. All resultant decisions and inferences -- if any are made at all -- to the Commission's conclusions with respect to individuals involved in the Temple Mount events of 8 October 1990, will be determined by the competent authorities.

7. The Commission received written material from different sources including "Betzelem," but the witnesses whose statements were

attached to the "Betzelem" report refused to appear for questioning before the Commission. Appeals by the Commission to the High Muslim Council and the Waqf administration to meet with the Commission were refused.

8. The opinion of a medical expert, submitted to the Commission, regarding seven of the wounded admitted to Mukased Hospital in Jerusalem, determined that not a single one of them was struck from behind.

9. The Commission calls on the the National Insurance Institute to clarify, as soon as possible, who among the wounded -- who did not take an active part in the disturbances of public order on the Temple Mount -- is eligible for benefits under the Victims of Hostile Action (Pensions) Law -- 5730 [1970].

CHAPTER 2: CONCLUSIONS AND INFERENCES.

1. THE STATUS OF THE TEMPLE MOUNT

It is the opinion of the Commission that a special ministerial committee for Temple Mount affairs be established in cooperation with the Mayor of Jerusalem. This committee should design policy, direct preparations for various situations, decide and supervise the coordination between the parties involved in the security of the Temple Mount and the Western Wall. This committee will consult religious leaders as is required by law.

2. CAUSES OF THE INCIDENT

A. The Muslim gathering on the Temple Mount exceeded the intended purpose of the site and the norms which a holy site oblige. The members of the Waqf knew that the High Court refused the "Temple Mount Faithful" petition to lay the cornerstone of the Third Temple, and did not respond to requests by Israel Police officers on the morning of the incident to calm the crowd. This, even after the fact that the police informed the Waqf that they would also prevent the "Temple Mount Faithful," and anyone else, from visiting the area, though such visits are allowed by law.

B. The incident itself began when, suddenly, violent and threatening calls were sounded on the speakers ("Allah Akbar," "Jihad," "Itbakh Al-Yahud" [Slaughter the Jews]). Immediately afterwords, enormous amounts of rocks, construction materials and metal objects were thrown at Israeli policemen who were present at the site. Many in the incited, rioting mob threw stones and metal objects from a very short range, and some even wielded knives in their hands. The actions of the rioters, and certainly the incitors, constituted a threat to the lives of the police, the thousands of worshipers at the Western Wall and to themselves. This was a serious criminal offense committed by masses who were incited by preachers on loudspeakers, and this is what led to the tragic chain of events.

C. It is the opinion of the Commission that any criminal acts that may have been carried out during the course of the events should continue to be investigated. It is the opinion of the Commission that there is room for suspicion that a considerable percentage of the people gathered at the Temple Mount and their leaders apparently were involvedin the obstruction of public order, causing harm to police and worshipers and endangering their lives.

3. USE OF FORCE BY THE POLICE.

A. The Commission has reached the conclusion that the lives of the

police on the Temple Mount were endangered, and that they feared for their lives, and for the lives of thousands of worshipers who were at the Western Wall.

The firing of tear gas and rubber bullets by the police, which came following the massive barrage of stones and other objects, was intended to deter the rioters and to repel them from the vicinity of the Western Wall. In light of the injuries which they sustained, the police were forced to retreat from the Temple Mount through Mughrabi Gate, and the barrage continued over the Western Wall, the Mughrabi Gate and the Ophel Road.

B. The breaking into the Temple Mount came as a result of the continuation of the rioting and the barrage of stones, and of the fear for the lives of two police officers who remained caught in the Temple Mount police station. There was also a concern that the weapons andammunition in the station would fall into the hands of the rioters. Since communications were cut off, the police commanders did not know that the policemen trapped in the station succeeded to escape on their own.

C. The breaking [into the Temple Mount] was done while using tear-gas grenades and live ammunition as the masses rained rocks and other materials on the police, which endangered their lives. The continuation of the storming of the police, which also was done by masked assailants, required the police to attack with live ammunition. When the masses entered the mosques, the order was given to "cease fire."

D. Regarding the above, the Commission is of the opinion that following the breaking into the Mughrabi Gate, which was necessary to save the lives of the trapped officers and to prevent ammunition from falling into the hands of the rioters, the storming masses continued to attack the police with rocks and other dangerous instruments. The police used gas and rubber bullets and, in life-threatening instances, also used live ammunition at their attackers.

E. The Commission recommends that a separate, detailed investigation by an independent police officer, appointed by the commander of the Border Police, be conducted into the initiative taken by one of the Border Police platoon commanders at the Lions' Gate without having received a specific order. The conclusions of the investigation will be submitted to the minister of police and the police commissioner.

F. An ambulance was hit by gunfire in its windshield and side,

with a nurse and the driver sustaining injuries. It was clarified to the Commission that the police did not see the ambulance, which stood between the pillars of the entrance to the Al-Aqsa mosque. The recommendation to the National insurance Institute given in Chapter 1 refers to these injuries.

G. There were no gas grenades or any other items thrown from the helicopter that flew over the Temple Mount, nor were any shots fired from it at the crowd.

4. THE FUNCTIONING OF THE SENIOR COMMAND LEVEL OF THE ISRAEL POLICE.

The Commission criticizes the functioning of the senior command level of the police:

A. The police had advance information on the possibility of rioting. The method of thinking and attitudes of the commander of the southern district and of the commander of the Jerusalem area were routine and even mistaken. There was no consideration of the special sensitivity of the Temple Mount and there was no advance preparation for a wide variety of possible situations. The supervision concerned itself with one element only, "the laying of a cornerstone for the Third Temple," and, when that was cancelled, they took routine measures.

B. Area and district commanders did not take into account the accumulated influence of the intifada, the environment created by terrorist elements and their attitude towards the Gulf crisis, and calls for incitement by the muezin and the preachers on the Temple Mount on the Friday before the events. These phenomena required the presence of initiative and suspicion that did not exist in this case. The police, further, did not have files on preparations for possible contingencies and, therefore, they were not tested.

C. In the opinion of the Commission, the situation that was created on the Temple Mount required the presence of commanders, of the most senior levels, on the Temple Mount. The situation also required the presence of area and district commanders and, as the situation intensified, there was room for the summoning of the commissioner. The activating of an emergency situation for the security of the Temple Mount, the setting up of a forward command post, the concentration of forces and the establishment of positions, could have deterred the frenzied masses from rioting. Following other events, the command posts were not staffed by senior commanders, the communications between different points on the Mount did not function properly and neither the commissioner nor the minister of police were briefed early on regarding

developments in the situation.

D. There are no sharp or uniform definitions regarding responsibility for command on the Mount. The Commission is of the opinion that the uniformity of command must be kept and that all the forces working in the Old City must report to the Old City command.

E. The Commander of the Border Police company that worked independently in the area felt it necessary to spread out the Border Police force above the Western Wall -- this step was in accordance with the orders that he received.

F. In the opinion of the Commission:

1) An elite force must be permenantly alloted to the Temple Mount and its vicinity to work under uniform supervision with defined juridictions and responsibilities.

2) A headquarters for incidents on the Temple Mount should be established that will report on events on the Mount and will be present at the time of the event.

3) Contingency plans must be prepared that will deal with possible situations and will formulate operative frameworks for dealing with any situation.

4) Reinforcements should be placed in close and immediate proximity and would be assigned to bolster the force during incidents.

5) The Commission recommends that the commander of the Old City police will be responsible for the preparation of forces and their testing, in order to ensure that they are prepared for action.

G. Criticism of the way in which the district functioned does not diminish the courage of the district commander, his officers and policemen in the course of subduing the rioters.

5. INTELLIGENCE.

A. Difficulties exist in the gathering of information, its analysis, in issuing warning and in assisting in preventing disruptions of public order. The Commission is of the opinion that the division of labor between the GSS and the police is basically correct and should not be changed.

B. The GSS has assumed upon itself the gathering of information on the organization of disruptions of order and the police has taken upon itself the gathering of information in the street, in connection to developments that are characterized as spontaneous.

C. Concerning the incident on the Temple Mount, there was no lack of advance information: general warnings by the GSS, and, above all, there was clear information -- the calls of the preachers, leaflets and the multiplicity of groups of masked assailants that called for gathering on the Temple Mount.

D. The mistake of the commissioner, the commander of the southern district and the Jerusalem area commander was in the evaluation of the information and in focussing on the assumption that, if the "laying of the cornerstone" could be prevented, everything would settle down peacefully -- as in the past.

A correct reading of the situation, given the change in circumstances and conditions, would have rendered possible the preventive deployment and preventative action that were demanded and necessary. Given this mistake, the police did not deploy its forces up as it should have been and a deterrent force was not concentrated to intervene as is acceptable. This basic evaluation did not change, even when there was precise information on the number of people on the Temple Mount.

E. The GSS evaluations were different than those of the police. The GSS made it clear that an unexpected catalyst would be liable to cause an explosion during a gathering under the circumstances which existed on the Temple Mount. The commission did not find basis for the existence of written warning by the GSS to the police with the same clarity as was presented by the GSS before the commission.

F. 1. The division of labor must be maintained between intelligence missions, and any intelligence regarding the Temple Mount must be distributed to the police minister and the ministerial committee which will be established. This committee will discuss intelligence preparations, if any exist.

2. The police must be allocated the tools and means to establish a "street intelligence" gathering network and to establish units which will operate within police framework and as part of area headquarters.

6. AUTHORITY WHICH WAS NOT IMPLEMENTED AND DETERRENT ACTIONS NOT TAKEN.

A. 10 October 1990 was replete with events and the police

allocated forces and commanders to all. The commission proposes that events on the Temple Mount be viewed over a number of days.

B. "The Temple Mount Faithful" -- The actions of this small group deviated from the accepted according to law, but the matter cannot solely be dealt with from a legal and formal aspect. Muslims view this group as a provocative and threatening element which intends to drive them off of the Temple Mount. The Muslim leadership took advantage of the presence of this group in order to incite those gathered on the Temple Mount. The police should have been alert to this and should have approved escort for the group on another day. The police saw itself bound by the High Court decision, but, neverthless, verification carried out by the commission reveals that there was no such obligation and it was possible to transfer the event to another day.

In the Commission's opinion, the police should consider limiting events on the Temple Mount, the Western Wall and in the Old City plaza which have a high probability of resulting in severe disturbances.--

C. The prohibition of gatherings on the Temple Mount which are liable to result in disturbances -- Those who gathered on the Temple Mount offended the sanctity of the site and they apparenty violated the law. From the start, they were called to a protest prohibited on the Temple Mount, the security of which lies with the State of Israel.

In the Commission's opinion the police had the authority to close the Temple Mount gates and to prevent entry and gathering whose intent was unrest.

The police also could have prevented the entry of suspicious elements -- a step which has proved itself in the past.

During the events, the police could also have taken measures which could have prevented a deterioration -- such as disconnecting the loudspeaker system which incited the mob. These steps were not taken, mainly because of the assumption that order would return if the "Temple Mount Faithful" were not allowed to enter the Mount. The police tried unsuccessfully to shoot down down the loudspeaker. In the Commission's opinion, this technical problem could have been solved in the past and all must be done prevent future use of the loudspeaker for incitement.

Had the police acted in such a manner, criticism would likely have been limited to the Muslim public and other hostile elements.

Nevertheless, it is preferable to contend with such criticsm than to reach the sad results of events on the Temple Mount, depite the fact that the blame and responsibility lies with the thousands of rioters who took advantage of the site in order to carry out disturbances.

D. BAN ON DEMONSTRATIONS IN THE AREA OF THE OLD CITY.

The national interest of the State of Israel and the special situation in the Old City require re-evaluation of what can or cannot be permitted in respect to gatherings and demonstrations which may lead to disturbances.

The Commission recommends preventing gatherings for the purpose of demonstrations on the Temple Mount, the Western Wall, and throughout the Old City. The freedom of worship of all religions in their holy places should be preserved. Only official State events may be permitted in the vicinity of the Western Wall.

E. USE OF TECHNOLOGICAL MEANS.

The use of live ammunition on the Temple Mount under the prevailing conditions was justified by the Commission. It is also clear that it is the policy of the police to use live ammunition only as a last resort, and only if lives are endangered. It is necessary to develop technological means whose efficiency would be greater than that of the use of gas and rubber bullets. The Commission emphasizes the immediate need to develop alternatives to the use of live ammunition. The Commission recommends the immediate establishment of a techno-defense crew that will evaluate possibilities for solving the problem of protecting the Temple Mount and the Western Wall. The ministerial committee will summarize and decide as soon as possible.

F. DIRECTION, FOLLOW-UP AND SUPERVISION BY THE MINISTER OF POLICE.

The minister of police carries ministerial responsibility for the actions of the police. The Commission is aware of the existing law, and of the special position and responsibilities of the the police commissioner. It is accepted that there is no room for interference by the minister of police in the process of a criminal investigation, but on the matter of the preservation of order, the active involvement of the minister is necessary to maintain his ministerial reponsibility. The current structure of the police ministry lacks the means to do so; therefore, it is urgently required to develop these means.

It is the opinion of the Commission that there is a need to develop special staff operations which will serve the minister, enabling him to formulate policy, examine alternatives and

maintain supervision. The minister of police must be involved in the matter of maintaining public order, while paying special attention to the Old City and the holy sites.

CHAPTER 3: THE TEMPLE MOUNT FROM A LEGAL, HISTORICAL AND POLITICAL PERSPECTIVE

The Legal Situation

The Temple Mount falls under the sovereignty of the State of Israel and, therefore, it is subject to all the laws of the State. Following the Six-Day War, Israeli sovereignty was extended to the eastern part of Jerusalem, including the Old City, in which the Temple Mount is situated. The extension of sovereignty was entailed in a Knesset law -- the Amendment of the Law and Administrative Ordinance (5748/1948). Furthermore, in the Protection of the Holy Places Law (5767/1967), the freedom of access to the holy places of all religions is guaranteed. Paragraph 1 of this law, because of its importance, also appears in the Basic Law: Jerusalem-Capital of Israel, that was passed in 1980.

The Jews and the Temple Mount

The Temple Mount has been considered holy by Israel since the time of David. Even when the people had been uprooted from the land, its interest in the holy site was maintained. After the Jordanian conquest, in 1948, the Jordanian government did not allow free access to the site for Jews, even though that had been ensured in the armistice agreement between Israel and Jordan in 1949. Observant Jews are prohibited from entering the Temple Mount, according to the command of the sages of Israel and of the Chief Rabbis, and their prayers are held at the Western Wall. Non-observant Jews enter the Temple Mount as visitors only. Freedom of access to the Temple Mount is anchored in the laws of the State and in the judgments of the High Court of Justice.

The Muslims and the Temple Mount

Since the Arab conquest of Jerusalem in 638, the Temple Mount has been a Muslim religious center. The High Court of Justice recognized the Temple Mount as a holy place for Muslims and it functions as a center of Muslim prayer. Given the exceptional sensitivity surrounding this holy place, former Prime Minister of Israel Levi Eshkol said, as early as 27 June 1967, to the heads of all religions that ". . . the holy places in Jerusalem are open to all religions. Everyone is welcome to visit and pray at the holy places, according to his religion and without discrimination. . ."

In accordance with this principle, the internal administration of matters relating to the Temple Mount, including the mosques

thereon, has been given to the authority of the Muslim Waqf.

The Responsibility for the Security of the Temple Mount

The responsibility for the security of the Temple Mount has been placed on the civilian authorities, whether during the days of the British Mandate or during the time of Jordanian rule. That is to say, the maintenance of public order is a state matter. The government of Israel, which holds sovereign jurisdiction over the Temple Mount, is, therefore, responsible for security on the site. Even Waqf authorities have not seen themselves as responsible for security matters.

In the report by an Arab "commission of investigation" -- signed by Anwar al-Khatib, Anwar Nuseibeh and Ba'id Alla al-Adin -- which was published following the fire at Al-Aqsa mosque in 1989, it was stated, inter alia, that ". . . the occupation authorities, being as they are, cannot escape their security responsibilites. The guardians of the Muslim shrines have no security jurisdiction or function. . ."

The Application of Criminal Law at the Holy Places

The High Court of Justice (HCJ 267/68) determined that criminal law, in its entirety, applies to the "holy places," but the state authorities have acted with caution in all matters concerning the enforcement of the law on the Temple Mount, owing to the sensitivity of the place and to a desire to prevent any outbursts of a religious nature.

Freedom of Religion -- the Adjucative Angle

Freedom of religion for Jews on the Temple Mount, as opposed to freedom of access, has been dealt with in many judgements of the High Court of Justice. In these judgements, criticism has been directed at the police decision to refuse permission to Jews who wish to pray on the Temple Mount. The majority of the appeals have been rejected by the Court, and, in most cases, an opinion has been expressed that the Temple Mount matter must be approached with great sensitivity, preferable to ". . . the hard-line and non-flexible approach of the law. . ." (see HCJ 222/86).

CHAPTER 4: REVIEW OF ORDERS AND ISRAEL POLICE PREPARATIONS.

GENERAL

At the beginning of 1990, an operational plan was formulated which dealt with police preparations in the Jerusalem area, and which was termed "First Thought." The main points of the plan determined that responsibility for the above area would be held by the Border Patrol headquarters, Jerusalem, which would be subordinate to the Jerusalem area [police] command and that the new headquarters would be granted the possibility and authority to operated on independent initiative.

The Border Patrol's "C" company was given responsibility for the area within the walls of the Old City (district D). It was clearly stated that disturbances and incitement were possible on the Temple Mount within this district. [Police] preparations brought into account the need to reinforce and increase forces under special circumstances. The "priestly benediction" [Birkat Hacohanim] and activities of the "Temple Mount Faithful" were cited among such circumstances.

POLICE ORDERS REGARDING SECURITY ON THE TEMPLE MOUNT

Jerusalem Area [Police department] -- In July 1983, the Jerusalem area published security orders and regulations regarding the Temple Mount. The orders include a description of the role attributed the commander of the Temple Mount [police] and standing orders to its policemen. In addition, the orders establish regulations regarding the activation of the Border Patrol force stationed on alert at the Mahkameh point, for reinforcement during incidents at the Temple Mount.

On 1.8.90, the Temple Mount unit was made subordinate to the police station in the Old City.

On 17.7.84, national [police] headquarters published "framework orders" -- security and regulations on the Temple Mount. No detailed order given by the Southern district or the Jerusalem area was brought to the Commissions's attention, and the order given in July 1983 will be updated.

Border Patrol -- In June 1989, a security order was issued to the Border Patrol's "C" company. The order established that responsibility for maintaining order and security on the Temple Mount, as well as the safeguarding of approach roads for visitors and the prevention of disturbances on the Temple Mount, lay with the Border Patrol unit.

ISRAEL POLICE ORDERS ISSUED BEFORE 8.10.90

National Headquartes -- On 21.8.90, the operations division of the national headquarters issued "Operational Orders -- Holidays 1990," intended to ensure public order and especially to ensure the safety of worshipers at various sites. The intelligence evaluation submitted with the orders determined that Jewish holidays constitute preferred dates for attacks, and stated clearly the sensitivity in East Jerusalem and on the Temple Mount as well as the probability of attack.

Southern District Headquarters -- On 29.8.90, headquarters issued operational orders -- "Southern district preparations for the New Year and Sukkot holidays 1990." The operational orders do not relate specifically to the Temple Mount and Western Wall area, apart from reference to the priestly benediction as a central event.

Jerusalem Area Headquarters -- In August 1990, headquarters issued Jerusalem headquarters preparation orders for the 1990 holidays. The orders emphasized vacation sites, but neither the Temple Mount nor the Western Wall were cited as special targets at which security had to be increased.

A number of appendixes were added to the orders. Appendix 9 dealt with the Old City police station, Appendix 13 with events due to take place over the holidays; citing the priestly benediction and "Temple Mount Faithful" events; Appendix 21 included orders regarding the priestly benediction events and imposed operational responsibility on the Border Patrol, Jerusalem; Appendix 22 related to the "Temple Mount Faithful" and detailed the events which they would be allowed to carry out in order to prevent "disturbances of the peace in the area."

Jerusalem District Border Patrol -- On 16.9.90, preparation orders for the 1990 holidays were issued. It was clearly stated that the company would increase its forces at the Western Wall and prepare reinforcements above the Western Wall. In Appendix 6 to the order, it was stated, inter alia, that a special force, to be stationed on the Temple Mount above the Western Wall, would be added on the eve of the Sukkot holiday and on the day of the priestly benediction.

PRELIMINARY INFORMATION AND DISCUSSIONS HELD BEFORE THE EVENTS

Discussions at the Police and Security Service Level:

On 24.8.90, information regarding a possible conflagration concerning the Temple Mount was brought to the attention of the relevant police officials. At the end of September, the security situation expected over the holidays was discussed with the head of police intelligence within a forum which was convened by the committee for the security of Jerusalem, and with the inspector-general at a working meeting between the Jerusalem area commander and with the [person] responsible for the city's security.

The Prime Minister's statements -- On 30.9.90, at the end of the cabinet meeting in which the police minister and inspector-general briefed on the issue, the Prime Minister concluded: ". . . Security in Jerusalem is of the utmost importance and the police, at the time, received special orders to ensure that Jerusalem's security would not be violated. . . we are witness to too many disturbances and attacks in Jerusalem. This situation must be halted."

THE APPEAL OF THE "TEMPLE MOUNT FAITHFUL" TO THE HIGH COURT

On 1.10.90, the appeal directing the police to allow the Temple cornerstone laying ceremony to be carried out adjacent to the Dung Gate and the building of a sukkah next to the Mughrabi Gate was discussed. A declaration made by an officer from the Jerusalem area operations division was attached to the notice of objection to the petition, filed on behalf of the State Attorney, which stated that the police had intelligence information about expected disturbances on the Temple Mount as a result of the appellants' intentions, and that building a sukkah adjacent to the Mughrabi Gate would result in stone-throwing, which could unintentionally harm worshipers at the Western Wall Plaza.

The appeal was rejected and this was given widespread coverage in Arabic newspapers published in East Jerusalem. In addition to this coverage, conclusions of the discussion were submitted on 3.10.90 to the Waqf administration and to the Al-Aqsa mosque administration.

PREPARATIONS REGARDING THE TEMPLE MOUNT BEFORE 8.10.90

Calls during Friday prayers:
Despite coverage and the announcements communicated to the Waqf administration, the muezin, after Friday prayers (5.10.90), called on youths to arrive at the Temple Mount on Monday (8.10.90) in order to bodily prevent Jews from laying the cornerstone on the Temple Mount. Following the muezin's appeal, speeches were made, repeating the appeals.

Intelligence sources and a Hamas leaflet informed of expected

disturbances on 5,6,7-11.10.90. On 7.10, masked assailants called on the residents of Abu Tor to arrive the following day at the Temple Mount in response to the intentions of Jews to arrive at the site.

DISCUSSION AND PUBLICATIONS

On 5.10.90, a discussion regarding security preparations in Jerusalem was held in the police minister's office. On 7.10, the minister briefed the cabinet. On the morning of the day of the events, the afternoon newspapers published reports about the reinforcement of forces and new preparations in Jerusalem resulting from the Muslim religious leaders' calls.

CHAPTER 5: DESCRIPTION OF EVENTS ON THE TEMPLE MOUNT ON 8.10.90.

This chapter describes as accurately as possible the chain of events on the Temple Mount. The description is based on testimony (gathered under sworn statement and under warning) from security personnel who were present on the Temple Mount at the time of the events. The testimony was investigated and verified through various means -- whether by video, written declarations or additional information gathered by the security services and the public. Some of the detainees were also investigated, as well as those injured. All facts and times were cross-checked.

At 03:30, chain of events begin when Muslim worshipers entered the Temple Mount for dawn prayers, and ended at 13:30. In this summary, we will make mention of only a number of main events.

At 08:30, when a few hundred youths already were present on the Temple Mount, a "calming discussion" was held between the commander of police on the Temple Mount and Waqf dignitaries. The police commander announced that no one would enter the Temple Mount on that day. It was emphasized that the "Temple Mount Faithful" would not be allowed to enter the Temple Mount either.

At 08:40, a gathering of about 2,000 people was reported and a warning about disturbances was given. A Border Patrol officer requested response.

At 09:00, a reinforcement force of Border Patrol was deployed above the Western Wall.

Between 09:15 and 09:30, Waqf dignitaries were requested to calm the atmosphere.

Between 09:40 and 09:50, the "priestly benediction" was held at the Western Wall, with the participation of between 20,000 and 30,000 people. At the conclusion of the prayers, they began leaving the site.

At 09:50, approximately 20 members of the "Temple Mount Faithful" arrived at the Western Wall Plaza.

At 10:00 they departed, accompanied by police, for the Pool of Shiloah. At this time, sermons and speeches began to be heard on the Temple Mount, which included incitement against Jews. Waqf members were warned that wild incitement could lead to disturbances and were requested to calm the atmosphere. At this time, youths began gathering stones from buildings being renovated on the Temple Mount.

At 10:45, approximately 2,000-3,000 people stormed toward 44 Border Patrol policemen who were standing above the Western Wall.

Stones and pieces of iron were thrown at them and in the direction of the Western Wall. An order was given to shoot tear gas and rubber bullets, but the storming was not halted. Border Patrol policemen, some of whom were injured, retreated to beyond the Mughrabi Gate and toward the Mahkameh. The evacuation of worshipers from the Western Wall Plaza was begun immediately.

At 10:55, hundreds of youths charged the police station on the Temple Mount, in which two policemen who were shouting for help were trapped. Contact with them was broken and the two policemen, who managed to escape, did not succeed in relaying word of their escape. Weapons and ammunition were left in the police station. While worshipers and Border Patrol policemen were being evacuated, no live fire was directed at the rioters.

At 11:05, policemen began breaking through to the Temple Mount via the Mughrabi Gate. The policemen met a barrage of stones and iron and gas cannisters which they shot were thrown back at them. The incited mob prevented the policemen from progressing toward the police point. Masked assailants stormed the policemen and, since they were not halted by rubber bullets, live ammunition was fired, first in the air, and subsequently toward the rioters.

At about 11:00, the first ambulances arrived at the Temple Mount and parked at the entrance to Al-Aqsa mosque, in an area in which tear gas and rubber bullets and subsequently live ammunition were being shot. As a result of the shooting, the ambulance driver and the accompanying nurse were injured.

At 11:15, a patrol helicopter was called in to the Temple Mount area. Throughout the incident no shooting took place from the helicopter, and it served for follow-up and reconnaisance purposes only.

At 11:25, after the rioters retreated into the mosques, the "cease fire" order was given.

At 11:30, disturbances began in the vicinity of Lions' Gate. Youths attacked policemen with stones and, because rubber bullets and gas were not effective, the policemen were compelled to use live ammunition. Border Patrol policemen arrived in vicinity of the Lions' Gate after hearing on two-way radios that severe riots and disturbances were taking place there.

Between 12:50 and 13:00, a team of Border Patrol policemen were attacked by youths and masked assailants near Mukased Hospital. During the chase, a gas cannister was released, and entered the hospital. The patrol commander apologized for this regrettable incident.

There were many injuries in this severe incident. 19 policemen were injured as well as 9 Western Wall worshipers. According to Israel Police statistics, 20 people were killed and 53 injured on the Temple Mount. Due to a lack of written record, those who arrived at hospitals and were released the same day were not included in the number of wounded. The casualties and wounded were killed and injured while being present on the Temple Mount. No one was wounded while being present in mosques or buildings on the Temple Mount compound.

CHAPTER 6: ORGANIZATION, OPERATION AND SUPERVISION.

Intelligence -- Difficulties in the gathering of information create a division [of labor] whereby the GSS gathers information regarding disturbances which are organized in advance, and spontaneous disturbances are dealt with by the police. Information concerning street gatherings which are conveyed quickly to the police facilitate police response. The Commission is convinced that the present division of roles between the GSS and the police is correct and should not be changed.

Temple Mount Intelligence -- The information on which the Jerusalem district based its evaluations regarding possible events on the Mount on 8.10.90, are partly covert and partly overt: Muezin calls, leaflets, information about masked assailants who were in the neighborhood and covert information regarding concern over a confrontation with the "Temple Mount Faithful."

Based on this information, the police estimated that if it were to notify the Waqf administration of the High Court decision stating that there was no need to intervene in the police decision to prevent the "Temple Mount Faithful" from carrying out their plans -- passions would calm down. This was done, and the Jerusalem area police estimated that its steps calmed passions and, therefore, did not deploy its regular contingent for events on the Temple Mount which are liable to result in disruptions of order. The GSS evaluation relayed to the Commission on 16.10.90 differed. According to this evaluation, an unexpected accelerating factor in a[n emotionally] charged crowd is sufficient to cause a confrontation with the police. No basis was found for this evaluation in material distributed by the GSS before 8.10.90.

Police Preparations for Operations on the Temple Mount -- A Border Patrol regiment is subordinate to the Jerusalem area. "C" company, part of this regiment, is stationed in the Old City. A standby unit is also stationed at the Mahkameh. The Border Patrol company coordinates its operations with other police forces. The recently established Old City headquarters holds regional responsibility for all areas in the Old City.

On days given to disturbances, the Jerusalem area takes command of all forces and establishes a forward command post. When a forward command post is established, no questions arise as to command of the forces. Ordinarily, the question of authority over the Border Patrol company in the Old City arises.

The division of command over policemen on the Temple Mount,

between commander of the Old City and the Border Patrol commander, resulted in faults in the containment of the unrest. "C" company operated under the complete authority of the Border Police commander until the arrival of the Jerusalem area commander, who subsequently took command of all forces. The deployment of forces on the Temple Mount on 8.10.90 was based on preparation orders of the Jerusalem area, Southern district, which were issued to Border Patrol headquarters. Border Patrol headquarters also issued an order pertaining to its company and which defined its missions.

Headquarters Alert -- The special sensitivity of the site, and information available to the commanders, should have caused them to arrive at the site. The commanders were occupied with other events, but, in light of information available to them, they should have altered their priorities. The Commission has investigated and found that the commander of "C" company took the necessary decisions, based on preliminary orders issued him and an assessment of the field situation. Different preparations would have subjected the 20,000 worshipers to severe danger.

Conclusions -- Police Deployment on the Temple Mount -- Thousands of worshipers concentrate on the Temple Mount and in the Western Wall Plaza on religious holidays. The mounting extremism among minority groups of Jews and Muslims obligates the adoption of appropriate security measures. The gathering of hundreds of Muslims within the Temple Mount boundaries constitutes a threat to worshipers at the Western Wall. Their storming above the Wall, even when this area is manned by policemen, does not prevent stoning in the direction of the Plaza. Their containment, in such a case, can be achieved only by the shooting of tear gas, rubber bullets and when no choice remains -- live ammunition.

It is in the Commission's opinion that an appropriate security apparatus must be based, first and foremost, upon control and supervision of entry into the Temple Mount.

Actions Taken by the Forces -- Stage 1: The storming of more than 2,000 Muslims toward Border Patrol policemen, some of whom were wounded, who were compelled to use tear gas, shoot rubber bullets and retreat in alarm. At this stage, live fire was shot by only two commanders. At the same time, Border Patrol policemen warned worshipers at the Western Wall to begin evacuation of the Plaza.

Stage 2: The area commander arrived at the Mughrabi Gate and took command. The duty officer at the Temple Mount police station calls for help, the station is attacked. The police force prepares to charge and the area commander allows the use of live ammunition, in accordance with police orders.

The charging police forces gathered in an improvised manner. During the charge there was an unsupervised use of live

ammunition. The rescue of the two policemen trapped inside the Temple Mount police station justified a quick operation and the use of all means. On other fronts, only those policemen whose lives were in danger were justified in using live ammunition. Gaining control of the line between the police station and Al-Aqsa mosque was essential, but it is doubtful whether clearing the area from there in the direction of the Lions' Gate was crucial under conditions which prevailed on the Mount.

Difficulties in Activation of the Forces -- The Jerusalem area headquarters and Border Patrol headquarters had no advance plans for gaining control of the Temple Mount area. It was not forecasted that during routine days, a mob would gain control of the Temple Mount area or that police forces would have to regain control of the area. These facts influenced the operation of the forces. Deployment of the Border Patrol forces above the Wall came as a surprise to the area commander and the area operations officer. It would have been preferable to ensure that the Gate of the Chain remain open through advance planning and early orders.

The many events that took place in the Jerusalem area resulted in the fact that the area commander and officers of his staff were not present at headquarters, and this severely impeded its operation. The absence of a commander is justified as long as headquarters serve as a center of control over forces in the field.

Important information was relayed to the headquarters during the day. Had there been an authoritative duty officer present, the situation would have been different. Such circumstances would have facilitated a re-evaluation of forces, a suitable deterrent force would have prevented the mob from attacking the Border Patrol policemen who were stationed above the Western Wall, and such extensive use of live fire would have been prevented.

There has to be an immediate implementation of the lessons of 8.10.90; faults have to be rectified; and, the functioning of [forces] in the Temple Mount area in times of emergency, as well as under regular conditions, has to be re-evaluated.